



This is a digital copy of a book that was preserved for generations on library shelves before it was carefully scanned by Google as part of a project to make the world's books discoverable online.

It has survived long enough for the copyright to expire and the book to enter the public domain. A public domain book is one that was never subject to copyright or whose legal copyright term has expired. Whether a book is in the public domain may vary country to country. Public domain books are our gateways to the past, representing a wealth of history, culture and knowledge that's often difficult to discover.

Marks, notations and other marginalia present in the original volume will appear in this file - a reminder of this book's long journey from the publisher to a library and finally to you.

Usage guidelines

Google is proud to partner with libraries to digitize public domain materials and make them widely accessible. Public domain books belong to the public and we are merely their custodians. Nevertheless, this work is expensive, so in order to keep providing this resource, we have taken steps to prevent abuse by commercial parties, including placing technical restrictions on automated querying.

We also ask that you:

- + *Make non-commercial use of the files* We designed Google Book Search for use by individuals, and we request that you use these files for personal, non-commercial purposes.
- + *Refrain from automated querying* Do not send automated queries of any sort to Google's system: If you are conducting research on machine translation, optical character recognition or other areas where access to a large amount of text is helpful, please contact us. We encourage the use of public domain materials for these purposes and may be able to help.
- + *Maintain attribution* The Google "watermark" you see on each file is essential for informing people about this project and helping them find additional materials through Google Book Search. Please do not remove it.
- + *Keep it legal* Whatever your use, remember that you are responsible for ensuring that what you are doing is legal. Do not assume that just because we believe a book is in the public domain for users in the United States, that the work is also in the public domain for users in other countries. Whether a book is still in copyright varies from country to country, and we can't offer guidance on whether any specific use of any specific book is allowed. Please do not assume that a book's appearance in Google Book Search means it can be used in any manner anywhere in the world. Copyright infringement liability can be quite severe.

About Google Book Search

Google's mission is to organize the world's information and to make it universally accessible and useful. Google Book Search helps readers discover the world's books while helping authors and publishers reach new audiences. You can search through the full text of this book on the web at <http://books.google.com/>



32101 064216946

BIENNIAL REPORT
OF THE
ATTORNEY-GENERAL
OF THE
STATE OF NORTH CAROLINA.

1902-1904

7797

.684

1902/04

Library of



Princeton University.

✓ BIENNIAL REPORT

OF THE

ATTORNEY-GENERAL'S dept.

OF THE

STATE OF NORTH CAROLINA.

1902-1904.

ROBERT D. GILMER,
ATTORNEY-GENERAL.

RALEIGH:
E. M. UZZELL & Co., STATE PRINTERS AND BINDERS.
1905.

A LIST OF ATTORNEYS-GENERAL SINCE THE ADOPTION OF THE CONSTITUTION IN 1776.

	<i>Term of Office.</i>
Avery, Waightstill	1777-1779
Iredell, James	1779-1782
Moore, Alfred	1782-1790
Haywood, John	1791-1794
Baker, Blake	1794-1803
Seawell, Henry	1803-1808
Fitts, Oliver	1808-1810
Miller, William	1810-1810
Burton, Hutchins G.	1810-1816
Drew, William	1816-1825
Taylor, James F.	1825-1828
Jones, Robert H.	1828-1828
Saunders, Romulus M.	1828-1834
Daniel, John R. J.	1834-1840
McQueen, Hugh	1840-1842
Whitaker, Spier	1842-1846
Stanly, Edward	1846-1848
Moore, Bartholomew F.	1848-1851
Eaton, William	1851-1852
Ransom, Matt. W.	1852-1855
Batchelor, Joseph B.	1855-1856
Bailey, William H.	1856-1856
Jenkins, William A.	1856-1862
Rogers, Sion H.	1862-1868
Coleman, William M.	1868-1869
Olds, Lewis P.	1869-1870
Shipp, William M.	1870-1872
Hargrove, Tazewell L.	1872-1876
Kenan, Thomas S.	1876-1884
Davidson, Theodore F.	1884-1892
Osborne, Frank I.	1892-1896
Walser, Zeb. V.	1896-1900
Douglas, Robert D.	1900-1901
Gilmer, Robert D.	1901-1909

North Carolina lib. - Ech.
- Univ. of

LETTER OF TRANSMITTAL.

STATE OF NORTH CAROLINA,
OFFICE OF ATTORNEY-GENERAL,
RALEIGH, December 31, 1904.

To His Excellency, CHARLES B. AYCOCK,
Governor of North Carolina.

DEAR SIR:—I have the honor to transmit herewith my
biennial report for the years 1902-1903 and 1903-1904.

Respectfully submitted,

ROBERT D. GILMER,
Attorney-General.

DEC 27 '04

(RECAP)

EXHIBIT 1.

LIST OF CASES ARGUED BY THE ATTORNEY-GENERAL BEFORE
THE SUPREME COURT, AT FEBRUARY TERM, 1903; AUGUST
TERM, 1903; FEBRUARY TERM, 1904, AND AUGUST TERM,
1904.

FEBRUARY TERM, 1903.

(132 NORTH CAROLINA REPORT).

1.

State v. Demus Goode; from Northampton; murder; from a verdict of manslaughter and judgment thereon the prisoner appealed; new trial.

2.

State v. Vance Spivey; from Halifax; murder; from a verdict of guilty in the first degree and judgment thereon the prisoner appealed; affirmed.

3.

State v. Fred Vick; from Wayne; rape; from a verdict of guilty and judgment thereon the prisoner appealed; affirmed.

4.

State v. John Marsh; from Union; rape; verdict guilty; motion in the Supreme Court in arrest of judgment on account of defect in the indictment; judgment arrested; mem. 133, p. 784; same case, 134 N. C., p. 184.

5.

State v. Walter Barrett; from Moore; murder; from a verdict of guilty in first degree and judgment thereon the prisoner appealed; new trial.

6.

State v. John Parker; from Durham; section 1101 of The Code; from a verdict of guilty and judgment thereon the prisoner appealed; new trial.

7.

State v. Frank May; from Guilford; abandonment; from a verdict of guilty and judgment thereon the defendant appealed; motion in Supreme Court in arrest of judgment; judgment arrested.

8.

State v. E. L. Utley; from Cumberland; murder; from a verdict of guilty in the second degree the prisoner appealed; affirmed.

9.

State v. J. G. Mitchell; from Rockingham; slander of an innocent woman; under The Code, sec. 1113, from a verdict of guilty and judgment thereon the defendant appealed; motion in arrest of judgment; judgment arrested.

10.

State v. J. F. Austin; from Randolph; perjury; from a verdict of guilty and judgment thereon the defendant appealed; new trial.

11.

State v. A. H. Ninestein; from Rowan; for a violation of an ordinance of the City of Salisbury; from a judgment of guilty on special verdict the defendant appealed; reversed.

12.

State v. Albert Jones; from Wake; trespass; from a judgment of not guilty on a special verdict the State appealed; affirmed.

13.

State v. J. W. Crook; from Union; removal of crops; from a verdict of guilty and judgment thereon the defendant appealed; affirmed.

14.

State v. Eli Bradley, Jr.; from Polk; retailing spirituous liquors without license; from a judgment of not guilty on a special verdict the State appealed; new trial on account of defect in the special verdict.

15.

State v. J. T. Mehaffey; from Catawba; assault with intent to commit rape; from a verdict of guilty and judgment thereon the defendant appealed; affirmed.

16.

State v. Joe Cole and others; from Vance; murder; from a verdict of guilty in the first degree against Joe Cole and judgment thereon he appealed; new trial.

17.

State v. John Hall and others; from Robeson; murder; from a verdict of guilty of manslaughter the defendants appealed; new trial.

18.

State v. Riddick Boone; from Gates; carrying concealed weapon; from a verdict of not guilty on a special verdict the State appealed; reversed.

19.

State v. Charles Yoder; from Catawba; failure to work public road; from a verdict of guilty and judgment thereon the defendant appealed; judgment affirmed.

20.

State v. James Wilcox; from Perquimans; murder; from a verdict of guilty in second degree and judgment thereon the prisoner appealed; affirmed.

*Memoranda of Cases Disposed of at February Term, 1903,
Per Curiam (132 N. C., 1148, 1149, 1150, 1151):*

21.

State v. Monds; affirmed.

22.

State v. R. and S. Burke; affirmed.

23.

State v. Bird; affirmed.

24.

State v. Southern Express Co.; affirmed.

25.

State v. Bruce and others; affirmed.

AUGUST TERM, 1903.

(133 NORTH CAROLINA REPORT).

26.

State v. Thomas Campbell; from Pitt; removing fence; section 1062 of The Code; from a verdict of guilty and judgment thereon the defendant appealed; affirmed.

27.

State v. Fate Staton; from Pitt; burglary; from a verdict of guilty and judgment thereon the defendant appealed; affirmed.

28.

State v. Henry Graham; from Lenoir; highway robbery; from a verdict of guilty and judgment thereon the defendant appealed; new trial.

29.

State v. Thomas Lewis; from Lenoir; larceny; from a verdict of guilty and judgment thereon the defendant appealed; new trial

30.

State v. Hunch Hullen; from New Hanover; larceny; from a verdict of guilty and judgment thereon the defendant appealed; affirmed.

31.

State v. John Clenny; from Sampson; removing crop; remanded to perfect statement of case on appeal; mem., same case 134 N. C., 754.

32.

State v. William Lew; from New Hanover; from an order quashing the indictment the State appealed; reversed.

33.

State v. H. B. Adams; from Robeson; larceny; from a verdict of guilty and judgment thereon the defendant appealed; new trial.

34.

State v. Jeff Crook; from Union; assault and battery; from

a verdict of guilty and judgment thereon the defendant appealed; new trial.

35.

State v. Frank Crook; from Union; assault and battery; from a verdict of guilty and judgment thereon the defendant appealed; new trial.

36.

State v. C. C. McDonald; from Wake; embezzlement; from a judgment of guilty on a special verdict the defendant appealed; new trial.

37.

State v. A. W. Neal; from Cabarrus; retailing; from a verdict of guilty and judgment thereon the defendant appealed; new trial.

38.

State v. Simon Tyson; from Pitt; burning tobacco barn; from a verdict of guilty and judgment thereon the defendant appealed; affirmed.

39.

State v. Felix Holder; from Cabarrus; retailing; from a verdict of guilty and judgment thereon the defendant appealed; new trial.

40.

State v. C. R. Ledford; from Yancey; burning barn; from a verdict of guilty and judgment thereon the defendant appealed; affirmed.

41.

State v. James Fritz and Hollifield; from McDowell; Fritz only on trial; affray; the judgment of guilty on the special verdict was affirmed as to affray.

42.

State v. Andrew C. Biggs; from Guilford; practising medicine and surgery without license; from a judgment of guilty on a special verdict the defendant appealed; reversed.

43.

State v. G. T. Morgan; from Wilson; gaming; from a verdict of guilty and judgment thereon the defendant appealed; affirmed.

44.

State v. J. B. and H. B. Register; from Columbus; murder and accessory before the fact; from a verdict of guilty and judgment thereon the defendants appealed; affirmed.

45.

State v. J. M. Taylor; from Edgecombe; assault with a deadly weapon; from a judgment for the defendant the State appealed; reversed.

46.

State v. Will Boggan; from Anson; murder; from a verdict of guilty and judgment thereon the prisoner appealed; affirmed.

47.

State v. J. E. Castle and W. E. Garland; from Burke; from a verdict of guilty of murder in the second degree the defendants appealed; new trial.

*Memoranda of Cases Disposed of at August Term, 1903,
Per Curiam (133 N. C., 782, 783, 784):*

48.

State v. Sawyer; affirmed.

49.

State v. Payne; affirmed.

50.

State v. Lewis; affirmed.

51.

State v. Longmire; affirmed.

52.

State v. Arnett and others; affirmed.

53.

State v. Ratliff; affirmed.

54.

State v. Marsh; new trial.

FEBRUARY TERM, 1904.

(134 NORTH CAROLINA REPORT).

55.

State v. Butts; from Halifax; from an order remanding case to a justice of the peace the prosecutor appealed; dismissed.

56.

State v. Poyner; from Currituck; obstructing waterway; from a verdict of guilty and judgment thereon the defendant appealed; new trial.

57.

State v. J. G. Patterson; from Durham; retailing; from a verdict of not guilty on special verdict the State appealed; reversed.

58.

State v. George Capps; from Beaufort; murder; from a verdict of guilty in second degree and judgment thereon the prisoner appealed; affirmed.

59.

State v. Frank Davis; from Lenoir; murder; from a verdict of guilty in first degree and judgment thereon the prisoner appealed; affirmed.

60.

State v. A. M. Edwards; from Craven; retailing intoxicating liquors; from an order quashing the indictment the State appealed; affirmed.

61.

State v. Alfred Daniels; from Jones; murder; from a verdict of guilty in first degree and judgment thereon the prisoner appealed; affirmed.

62.

State v. Dan Teachey; from Duplin; murder; from a verdict of guilty in first degree and judgment thereon the prisoner appealed; new trial.

63.

State v. Thomas Green; from Craven; assault and battery; from a verdict of guilty and judgment thereon the defendant appealed; new trial.

64.

State v. C. F. Dunn; from Lenoir; embezzlement; from a verdict of guilty and judgment thereon the defendant appealed; new trial.

65.

State v. George W. Daniels; from Duplin; murder; from a verdict of guilty in first degree and judgment thereon the prisoner appealed; new trial.

66.

State v. Munn; from Cumberland; murder; from a verdict of guilty in first degree and judgment thereon the prisoner appealed; affirmed.

67.

State v. Robert Blackman; from Union; retailing; from a verdict of guilty and judgment thereon the defendant appealed; new trial.

68.

State v. Adam Hunt; from Person; murder; from a verdict of guilty in first degree and judgment thereon the prisoner appealed; affirmed.

69.

State v. Archie Lipscomb; from Granville; murder; from a verdict of guilty in first degree the prisoner appealed; affirmed.

70.

State v. G. Clark; from Ashe; murder; from a verdict of guilty in first degree and judgment thereon the prisoner appealed; new trial.

71.

State v. Clarence Potter; from Watauga; murder; from a verdict of guilty in first degree and judgment thereon the prisoner appealed; new trial.

72.

State v. Liles; from Union; bastardy; from a verdict of guilty and judgment thereon the defendant appealed; affirmed.

73.

State v. Goulden; from Rockingham; bigamy; from a verdict of guilty and judgment thereon the defendant appealed; affirmed.

74.

State v. Garland; from Mitchell; speculating in county claims (The Code, sec. 1009); from a judgment of guilty on a special verdict the defendant appealed; reversed.

*Memoranda of Cases Disposed of at February Term, 1904,
Per Curiam (134 N. C., 753-757):*

75.

State v. Doles; motion to re-instate appeal denied.

76.

State v. Alston; affirmed.

77.

State v. Clenny ; new trial.

78.

State v. Long ; affirmed.

79.

State v. Blackman ; new trial.

80.

State v. Bass ; affirmed.

81.

State v. Johnson (Durham) ; affirmed.

82.

State v. Johnson (Wilkes) ; dismissed for failure to print record.

83.

State v. Howard ; affirmed.

84.

State v. Gettys ; dismissed.

85.

State v. Long ; affirmed.

No criminal cases reported in the 135 North Carolina.

AUGUST TERM, 1904.
(136 NORTH CAROLINA REPORT).

86.

State v. Twiford and Tate; from Currituck; obstructing a navigable stream; from a verdict of guilty and judgment thereon the defendant appealed; affirmed.

87.

State v. Daniel; from Halifax; assault and battery with deadly weapon; from a verdict of guilty and judgment thereon the defendant appealed; new trial.

88.

State v. A. J. Leary and others; from Pamlico; forcible entry and detainer; from a verdict of guilty and judgment thereon the defendants appealed; new trial.

89.

State v. Lawrence Morgan and others; from Wilson; appeal from a judgment on a *sci. fa.* remanded.

90.

State v. J. W. Roberson; from Franklin; procuring laborers for employment without the State without first having paid a license tax; from a verdict of guilty and judgment thereon the defendant appealed; affirmed.

91.

State v. J. W. Roberson; from Franklin; plea of former conviction; the Court declined to sustain the plea and the defendant appealed; reversed.

92.

State v. Joe Hankins; New Hanover; larceny; appeal from the refusal to sustain a plea of former conviction; affirmed.

93.

State v. Thornton; from Sampson; assault; from a verdict of guilty and judgment thereon the defendant appealed; affirmed.

94.

State v. Bell; from Lenoir; removing crops; from a verdict of guilty and judgment thereon the defendant appealed; new trial; overruling State v. Neal, 129 N. C., 692.

95.

State v. Lewis; from Lenoir; larceny; from a verdict of guilty and judgment thereon the defendant appealed; new trial.

96.

State v. Moore; from Duplin; assault with deadly weapon; plea of former conviction; from a judgment of the Court that the evidence did not support the plea defendant appealed; affirmed.

97.

State v. Will Adams; from Wake; murder; from a verdict of guilty in the first degree and judgment thereon the prisoner appealed; new trial.

98.

State v. Huff; from Wake; assault with intent to commit rape; from a verdict of simple assault and judgment thereon the defendant appealed; new trial.

99.

State v. Davis and others; from Bladen; assault with deadly weapon; from a verdict of guilty and judgment thereon the defendant appealed; new trial.

100.

State v. Smith; from Bladen; assault with intent to commit rape; from a verdict of guilty and judgment thereon the defendant appealed; new trial.

101.

State v. Morgan and Ford; from Union; burning barn; from a verdict of guilty and judgment thereon the defendants appealed; new trial.

102.

State v. Van Pelt and others; from Rowan; conspiracy; from a judgment of not guilty on a special verdict the State appealed; affirmed.

Cases Disposed of at August Term, 1904, Per Curiam.

103.

State v. Morris; affirmed.

104.

State and Town of Greenville v. Mack Fleming; appeal dismissed.

105.

State v. Spruill; affirmed.

106.

State v. McLean; affirmed.

107.

State v. Southerland; affirmed.

108.

State v. H. H. Smith; affirmed.

109.

State v. Billings; affirmed.

110.

State v. Dillingham; appeal by State; affirmed.

111.

State v. Gentry; affirmed.

SUMMARY.

Affirmed	57
New trial	36
Reversed	8
Appeal dismissed	5
Judgment arrested	3
Remanded	2
Total	111

EXHIBIT 2.

LIST OF ACTIONS IN THE NATURE OF QUO WARRANTO PROCEEDINGS, BROUGHT BY PRIVATE RELATORS IN THE NAME OF THE STATE, UPON LEAVE GRANTED BY THE ATTORNEY-GENERAL.

1.

Richard Williams, relator, v. A. B. Gibbs; to vacate certain grants in Burke County; leave granted August 6, 1903.

2.

F. W. Hargett, relator, v. J. F. Bell; for the purpose of testing the validity of license under which the defendant was selling intoxicating liquors in Jacksonville, Onslow County; leave granted January 16, 1904.

3.

E. H. Shelburn and W. E. Jolley v. W. H. Wedbee and others; to test the validity of an election held in the town of Greenville upon the question of establishing a dispensary; leave granted April 1, 1904.

4.

James R. Rodwell, relator, v. Oliver L. Rowland; to try the title to office of the Clerk of Superior Court of Warren county; leave granted December 10, 1904.

CRIMINAL STATISTICS.

STATEMENT A—CRIMINAL ACTIONS DISPOSED OF FROM JULY 1, 1902, TO JULY 1, 1903.

Counties.	White.	Colored.	Indian.	Male.	Female.	Convicted.	Acquitted.	Nolle Pros.	Otherwise Disposed of.	Remarks.
Alamance	81	57		127	11	117	10	11		
Alexander	47	2		43	6	27	7	15		
Alleghany	29	2		31		26	3	2		
Anson	37	51		83	5	67	14	7		
Ashe	108	2		93	12	45	15	44	1	
Beaufort	27	42		65	4	52	15		2	
Bertie	34	48		80	2	64	12	6		
Bladen	31	25		55	1	40	5	11		
Brunswick	32	23		50	5	20	12	23		
Burcombe	164	164		272	56	210	45	59	14	
Burke										Two escapes: Bill and Ed. McKinnon, charge, assault, intent to rob and murder. Ed. McKinnon retaken.
Cabarrus	85	80		155	10	108	18	39		No report sent in from Burke.
Caldwell	58	26		80	4	46	20	18		
Camden	2	7		9		9				
Carteret	19	13		30	2	22	7	3		
Caswell	39	102		140	1	95	6	40		
Catawba	69	37		103	3	75	11	20		

Chatham	25	22	42	5	29	11	5	2	Two escapes; J. A. Parrish, charge, shooting in a store; Alex. Roberson, charge, retailing. No court held in September, 1902, in Currituck, owing to illness of Judge.
Chowan	29	34	57	6	42	5	16		
Clay	38		37	1	19	8	11		
Cleveland	35	46	78	3	66	8	7		
Columbus	74	32	93	13	78	14	14		
Cumberland	38	84	116	6	81	21	20		
Currituck	9	4	13		4	3	6		
Craven	157	278	382	53	171	34	227	3	
Cherokee	68	7	71	4	60	3	12		
Dare	21	3	24		17	3	4		
Davidson	101	39	128	12	76	20	44		Escaped, Luke Sullivan, larceny; Alf. Mabray; S. P. Caple broke jail about a year ago; considered insane; reported dead.
Davie	49	14	60	3	26	8	29		
Duplin	12	11	22	1	11	5	7		
Durham	16	121	132	5	127	10			
Edgecombe	27	119	140	6	129	17			
Forsyth	85	181	231	35	177	20	69		
Franklin	22	31	50	3	37	3	13		
Gaston	64	138	185	17	134	14	54		
Gates	44	19	59	4	45	11	7		
Graham	81		79	2	44	11	26		
Granville	48	67	109	6	74	6	35		
Greene	30	60	84	6	66	12	12		
Guilford	45	143	167	21	167		21		

STATEMENT A—CONTINUED.

Counties.	White.	Colored.	Indian.	Male.	Female.	Convicted.	Acquitted.	Nolle Pros.	Otherwise Disposed of.	Remarks.
Halifax-----	14	80	-----	85	9	94	-----	-----	-----	-----
Harnett-----	16	15	-----	29	2	8	1	22	-----	-----
Haywood-----	57	11	-----	68	5	41	5	22	-----	-----
Henderson-----	54	15	-----	60	9	40	20	9	-----	-----
Hertford-----	10	13	-----	21	2	15	4	3	1	-----
Hyde-----	16	36	-----	49	3	43	4	5	-----	-----
Iredell-----	39	43	-----	77	5	59	12	11	-----	-----
Jackson-----	11	-----	-----	10	1	7	3	1	-----	-----
Johnston-----	34	30	-----	62	2	62	-----	-----	2	-----
Jones-----	10	12	-----	22	-----	7	7	8	-----	-----
Lenoir-----	44	149	-----	185	8	153	12	26	2	-----
Lincoln-----	40	16	-----	43	8	32	13	11	-----	-----
Macon-----	106	6	-----	108	4	52	12	43	-----	-----
Madison-----	213	11	-----	199	25	134	26	64	-----	-----

Calvin Elliott, charged with rape, was executed Nov. 5, 1902.

Van Henderson, charged with murder; M. E. Hogan, murder; John Rice and Guss Murray, murder; Larkin Lindsey, cruelty to animals; Minerva Gosnell, slander; Willis Ball, A. D. W., escaped jail 12th Dec. Larkin Lindsey retaken.

William Gorham, charged with Lar. and Rec.; broke jail Feb. 1, 1903. He has not been re-taken.

Martin	22	27	47	2	30	13	6	
Mecklenburg	312	36	323	25	343			
Mitchell	54	6	53	7	32	11	17	
Montgomery	74	37	101	10	81	8	22	
Moore	35	61	91	5	53	15	22	
Nash	55	109	154	10	110	18	36	
New Hanover	65	225	253	32	211	57	22	
Northampton	17	22	39		33	3	3	
Onslow	27	26	51	2	28	10	13	2
Orange	10	15	23	2	21	4		
Pamlico	13	11	24		6	6	8	4
Pasquotank	24	47	67	4	49	9	11	2
Pender	17	32	48	1	27	12	10	
Perquimans	20	21	36	5	26	5	10	
Person	5	17	22		22			
Pitt	84	182	249	17	183	41	42	
Polk	56	6	60	2	40	6	16	
Randolph	144	16	151	9	82	26	52	
Richmond	5	24	27	2	17	5	7	
Robeson								
Rockingham	107	113	206	14	189	31	50	
Rowan	125	149	240	34	172	16	86	
Rutherford	94	41	124	11	57	32	46	

Wm. Roach, white, charged with A. D. W., escaped from courthouse when his case was called. Phillip Bryant, Frank Willis, Sam Bowen, charged with larceny, escaped from jail.

No reports sent in from Robeson County.

STATEMENT A—CONTINUED.

Counties.	White.	Colored.	Indian.	Male.	Female.	Convicted.	Acquitted.	Nolle Pros.	Otherwise Disposed of.	Remarks.
Sampson	72	43		110	5	71	29	15		
Scotland	28	50	2	67	13	45	15	20		
Stanly										No reports sent in from Stanly County.
Stokes	136	11		133	14	81	18	45	3	
Surry	89	22		99	12	65	18	19	9	
Swain	92	7	10	99	10	56	15	38		
Transylvania	25	3		22	6	23	3	2		
Tyrrell	16	11		27		12	10		5	
Union	63	95		147	11	108	28	21	1	
Vance	6	16		22		10	10	2		
Wake	83	218		271	30	250	30	21		
Warren	19	27		43	3	40	1	5		
Washington	14	33		44	3	31	9	7		
Watauga	58	7		58	7	43	8	12	2	
Wayne	37	49		83	3	86				Thomas Jones, colored, was lynched August 25, 1902, for rape.
Wilkes	303	7		290	20	54	19	237		

Wilson	106	160	255	11	181	54	29	2
Yadkin	44	7	50	1	46	5		
Yancey	78	6	75	9	63	7	14	
Total	5,273	4,566	12	9,082	769	6,488	2,133	57

RECAPITULATION OF STATEMENT A.

Total number criminal actions disposed of	9,851
Males	9,082
Females	769
Total	9,851
White	5,273
Colored	4,566
Indians	12
Total	9,851
Convictions, including submissions	6,488
Acquitted	2,133
Nolle pros	1,173
Otherwise disposed of	57
Total	9,851

STATEMENT B—CRIMINAL ACTIONS DISPOSED OF FROM JULY 1, 1903, TO JULY 1, 1904.

Counties.	White.	Colored.	Indian.	Male.	Female.	Convicted.	Acquitted.	Nolle Pros.	Otherwise Disposed of.	Remarks.
Alamance	93	58	---	138	13	100	9	39	3	
Alexander	69	1	---	60	10	39	17	14	---	
Alleghany	39	3	---	39	3	29	8	5	---	
Anson	33	40	---	71	2	49	3	20	1	
Ashe	66	2	---	61	7	25	17	26	---	
Beaufort	41	75	---	114	2	87	19	10	---	
Bertie	29	66	---	39	6	63	9	23	---	One escape, John Williams, charged with misdemeanor.
Bladen	33	22	---	52	3	17	5	33	---	
Brunswick	46	19	---	62	3	24	12	29	---	
Buncombe	254	264	---	469	49	442	59	12	5	
Burke	---	---	---	---	---	---	---	---	---	No reports.
Cabarrus	99	63	---	156	6	88	20	54	---	
Caldwell	75	27	---	90	12	44	23	30	---	Boone Potter, indicted in Watauga County for murder, escaped from Caldwell County Jail Dec. 18, 1903.
Camden	5	12	---	15	2	17	---	---	---	
Carteret	11	3	---	14	---	10	4	---	---	
Caswell	10	41	---	49	2	39	5	7	---	
Catawba	81	31	---	100	12	73	22	17	---	

Jabel Register was hanged Feb. 25, 1904, for murder of Jim Staley,

Chatham	23	23	44	7	38	8	5	---
Cherokee	60	3	61	2	42	16	5	---
Chowan	21	53	71	3	46	14	14	---
Clay	25	1	24	2	11	8	7	---
Cleveland	35	22	53	4	36	3	18	---
Columbus	39	25	56	8	53	4	7	---
Craven	153	351	461	43	86	14	404	---
Cumberland	35	44	77	2	46	19	14	---
Currituck	15	7	20	2	20	2	2	---
Dare	7	1	8	---	6	2	---	---
Davidson	80	28	92	16	64	6	37	1
Davie	79	30	105	4	82	12	14	1
Duplin	33	14	45	2	23	16	6	2
Durham	38	144	171	11	156	26	---	---
Edgecombe	29	84	107	6	100	13	---	---
Forsyth	129	195	283	41	236	35	53	---
Franklin	25	54	75	4	72	7	---	---
Gaston	71	89	151	9	122	10	25	3
Gates	21	23	43	1	30	9	5	---
Graham	53	---	3	4	30	12	14	---
Granville	15	55	62	8	44	11	15	---
Greene	65	105	165	5	123	33	14	---
Guilford	53	148	184	17	201	---	---	---

STATEMENT B—CONTINUED.

Counties.	White.	Colored.	Indian.	Male.	Female.	Convicted.	Acquitted.	Nolle Pros.	Otherwise Disposed of.	Remarks.
Halifax	24	41	—	65	—	65	—	—	—	—
Harnett	10	16	—	25	1	9	7	10	—	—
Haywood	115	4	—	110	9	89	—	30	—	—
Henderson	56	34	—	80	10	63	24	1	2	—
Hertford	8	29	—	33	4	31	1	5	—	—
Hyde	14	19	—	32	1	26	4	3	—	—
Iredell	—	—	—	—	—	—	—	—	—	No reports.
Jackson	62	1	—	62	1	28	21	14	—	—
Johnston	38	27	—	63	2	65	—	—	—	Ed. Williams, colored, charged larceny, escaped from jail in November, 1903.
Jones	15	11	—	26	—	14	2	10	—	—
Lenoir	63	113	—	164	12	98	46	31	1	—
Lincoln	51	23	—	73	6	72	2	5	—	—
Macon	70	6	—	70	6	40	21	15	—	—
Madison	74	4	—	68	10	61	13	3	1	—
Martin	32	74	—	102	4	56	24	26	—	—
Mecklenburg	61	213	—	262	12	273	1	—	—	—
Mitchell	71	2	—	70	3	37	25	11	—	—

Montgomery	85	36	118	3	62	20	39	
Moore	42	43	76	9	64	14	7	
Co Nash	67	104	166	5	119	27	26	
New Hanover	74	192	215	51	209	23	27	7
Northampton	43	40	81	2	50	12	21	
Onslow	15	33	46	2	33	10	4	1
Orange	17	19	35	1	17	5	14	
Pamlico	12	11	20	3	9	6	8	
Pasquotank	39	58	89	8	58	17	22	
Pender	22	20	38	4	27	10	5	
Perquimans	30	77	103	4	81	12	14	
Person	5	19	24		24			
Pitt	115	185	292	8	196	60	44	
Polk	32	5	36	1	22	4	11	
Randolph	69	12	78	3	60	8	13	
Richmond	37	53	91	4	83	10		2
Robeson								No report.
Rockingham	148	80	214	14	162	26	40	
Rowan	102	141	220	23	174	20	49	
Rutherford	105	49	136	18	90	25	39	
Sampson	37	28	65		56	7	2	
Scotland	9	48	56	2	42	8	8	
Stokes	109	17	111	15	74	23	18	6

STATEMENT B—CONTINUED.

Counties.	White.	Colored.	Indian.	Male.	Female.	Convicted.	Acquitted.	Nolle Pros.	Otherwise Disposed of.	Remarks.
Surry.....	75	19	---	90	4	83	6	3	2	
Swain.....	50	13	8	67	4	54	17	---	---	
Transylvania.....	90	14	---	35	9	89	4	1	---	
Tyrrell.....	9	9	---	13	5	16	2	---	---	
Union.....	53	40	---	92	1	73	12	8	---	
Vance.....	15	34	---	45	4	28	9	12	---	
Wake.....	130	180	---	284	26	218	46	44	2	
Warren.....	13	37	---	46	4	33	5	11	1	
Washington.....	12	51	---	58	5	49	11	3	---	
Watauga.....	75	8	---	75	8	53	10	20	---	
Wayne.....	41	56	---	93	4	97	---	---	---	
Wilkes.....	128	9	---	129	8	95	10	32	---	
Wilson.....	108	126	---	215	19	159	38	85	2	
Yadkin.....	67	10	---	75	2	41	9	27	---	
Yancey.....	13	2	---	13	2	12	1	2	---	
Total.....	4,890	4,731	12	8,934	599	6,602	1,238	1,750	43	

RECAPITULATION OF STATEMENT B.

Total number criminal actions disposed of	9,633
Males	8,934
Females	699
Total	9,633
White	4,890
Colored	4,731
Indians	12
Total	9,633
Convictions including submissions	6,602
Acquitted	1,238
Nolle pros	1,750
Otherwise disposed of	43
Total	9,633

STATEMENT C.—From July 1, 1902, to July 1, 1903.

Counties.	Assault and Battery.	Abandonment.	Abortion.	Affray.	Arson.	Assault.	Assault With Intent to Rape.	Attempt to Burn Dwelling.	Assault With Deadly Weapon.	Abduction.	Bastardy.	Bigamy.	Burglary—First Degree.	Burglary—Second Degree.	Burning Other Than Arson.	Burglery.
Alamance	1			12	6	12			7		1					1
Alexander				16		3			6							
Alleghany				1		3									1	
Anson	10			11					3							
Ashe		1		7		4			14							
Beaufort	2			5		4			25		1					
Bertie				12					21							
Bladen		1				16			2						3	
Brunswick	8			2		3										
Buncombe	2	1	1	40		6	1		65			1	1			
Burke																
Cabarrus		2		7		2			37							
Caldwell		1		2		23										
Camden				3					1							
Carteret	1	1		2		5										
Caswell				3		5			3							

STATEMENT C—CONTINUED.

Counties.	Assault and Battery.	Abandonment.	Abortion.	Aray.	Arson.	Assault.	Assault with Intent to Rape.	Attempt to Burn Dwelling.	Assault with Deadly Weapon.	Attempt to Poison.	Abduction.	Bastardy.	Bigamy.	Burglary—First Degree.	Burglary—Second Degree.	Burning Other than Arson.	Burgery.
Guilford		1		19	1	38						1			8		
Halifax				14		13			14							1	
Harnett	1			3					3								
Haywood				6					8								
Henderson	1			7					16							2	
Hertford				2		5			1								
Hyde				11		2			9								
Iredell				8					23								
Jackson				1		1			1								
Johnston	1			4		2	1		17				1				
Jones	4								5								
Lenoir	8			1		21			48	1	1	1	4			2	
Lincoln	22			3			1										
Macon	1			20		21											
Madison	4	1		19					41		4			2			
Martin	2			2		3			7								

STATEMENT C—CONTINUED.

Counties.	Assault and Battery.	Abandonment.	Abortion.	Affray.	Arson.	Assault.	Assault with Intent to Rape.	Attempt to Burn Dwelling.	Assault with Deadly Weapon.	Attempt Poison.	Abduction.	Pastardy.	Bigamy.	Burglary—First Degree.	Burglary—Second Degree.	Burning Other than Arson.	Burgery.
Sampson	4			2		6			2					1		1	
Scotland	2					3			20								
Stanly																	
Stokes	9	1		10					12								
Surry	1			3		3			28								
Swain		1		18		3	1		12								
Transylvania	1					1			8								
Tyrrell				8					2								
Union	9	1		5	1	2			28			1					
Vance				10					2								
Wake		5		20			8		67								1
Warren	1			5		5	1		5								
Washington				12					10			1					
Watauga				2					19								
Wayne	4			10		6			23								

Wilkes	7		3			1		32		1	1						
Wilson			53		2			48	1		1	1	1	1	1		
Yadkin			5		2	1		19									
Yancey	4		5		6			4								1	
Total	304	46	817	2	16	447	34	1,416	3	7	7	15	22	12	16		7

STATEMENT C—CONTINUED.

Counties.	C. C. W.	Compounding a Felony.	Conspiracy.	Cruelty to Animals.	Counterfeiting.	Concealing Birth of Child.	Disorderly House.	Disposing Mort- gaged Property.	Disturbing Meetings.	Escape.	Embezzlement.	Fornication and Adultery.	Failure to List Taxes.	False Pretense.	Forcible Trespass.	Forgery.	Failure to Work on Road.
Alamance	8								1		1	8		1	3		
Alexander	8						2					5			1		
Alleghany	11								1			4					
Anson	12							5						6	6	2	
Ashe	30			1			3		7			5			15		
Beaufort	7								2							1	
Bertie	7						1	1						2	5		
Bladen	7			1										4		1	
Brunswick	2			1		1			5			6		2			
Buncombe	59					3					4	24		4	10	2	
Burke																	
Cabarrus	12			1				2	2	5	5	2		1	4	1	
Caldwell	12			2					1			2			5		6
Camden	1							1									
Carteret				1						2		2					
Caswell	4														3		
													103				

[illegible]

STATEMENT C—CONTINUED.

Counties.	C. C. W.	Compounding a Felony.	Conspiracy.	Cruelty to Animals.	Counterfeiting.	Concealing Birth of Child.	Disorderly House.	Disposing Mortgaged Property.	Disturbing Meetings.	Escape.	Embezzlement.	Fornication and Adultery.	Failure to List Taxes.	False Pretense.	Forcible Trespass.	Forgery.	Failure to Work on Road.
Guilford	18			4			3			3		9		4	1	1	
Halifax	17						6	1				3				1	
Harnett	5														4		
Haywood	13			1			2		2		1	2	2	2	2		
Henderson	12							1	1			2			2		3
Hertford	4			3								2					
Hyde	1											4					
Iredell	17						1	2	6					1			
Jackson	1								1						1		
Johnston	9			2				1				3		1	1		
Jones	1							2									
Lenoir	42											2		3	5		
Lincoln	9								1					7			
Macon	19								12			9					
Madison	56						1	1				24				5	1
Martin	3			1							1		2			1	

[illegible]

STATEMENT C—CONTINUED.

Counties.	C. C. W.	Compounding a Felony.	Conspiracy.	Cruelty to Animals.	Counterfeiting.	Concealing Birth of Child.	Disorderly House.	Disposing Mortgaged Property.	Disturbing Meetings.	Escape.	Embezzlement.	Fornication and Adultery.	Failure to List Taxes.	False Pretense.	Forcible Trespass.	Forgery.	Failure to Work on Road.
Sampson	9			3								33	1	1	1	1	
Scotland	7								1		3	11			7		
Stanly																	
Stokes	10			1				3	6			6		1	2		
Surry	8						2	1	2			2			5		
Swain	10			3			1	1	19		2	12	1	2			
Transylvania	5		2									2					
Tyrrell	4								4								1
Union	23			3		1	1	1	1		1	7		1	10		
Vance	6																
Wake	24					1				1	4	4	6	7	4		
Warren	5			2				2	2	1							
Washington	7											1	1	1	1		
Watauga	13								1			1				2	
Wayne	14												1	2	1		

Wilkes	17				3		3				11		4	1		
Wilson	40	15	1								8		4	6	1	
Yadkin	18												1			
Yancey	17		1		2						8		1	5		
Total	1,267	21	72		11	46	61	140	27	42	406	506	126	188	31	15

STATEMENT C—CONTINUED.

Counties.	Fraud.	Gambling.	House Breaking.	House Burning.	Incest.	Injury to Property.	Injury to Stock.	Illegal Registration.	Larceny.	Larceny and Receiving.	Libel.	Manslaughter.	Murder—First Degree.	Murder—Second Degree.	Miscellaneous.	Malpractice in Office.	Misdemeanor.
Alamance		7							22						10		
Alexander						2			4								
Alleghany						1	1										
Anson	1		1						16			1			4		
Ashe									5						5		
Beaufort		6							10						2		
Bertie		4					1		12			1		3	2		
Bladen									9					1	2		
Brunswick									4				1		5		
Buncombe		6			1	2	1		42				5		34		
Burke																	
Cabarrus		1				1			28			1		1	10		
Caldwell									3								
Canden									3								
Carteret						4			7						5		1
Caswell			3						6				2		5		

STATEMENT C—CONTINUED.

Counties.	Fraud.	Gambling.	House Breaking.	House Burning.	Incest.	Injury to Prop-erty.	Injury to Stock.	Illegal Registra-tion.	Larceny.	Larceny and re-ceiving.	Libel.	Manslaughter.	Murder—First Degree.	Murder—Second Degree.	Miscellaneous.	Malpractice in Office.	Misdemeanor.
Guilford		5	1			3			47						6		
Halifax		3			1				18				1				
Harnett			1						5					1	1		3
Haywood						2			4					1	9		
Henderson									7						2		
Hertford						1									3		
Hyde							2		4						18		
Iredell		1				1			16								
Jackson									1								
Johnston									17								
Jones									5						2		
Lenoir		11				1			88				1		5		
Lincoln									6						2		
Macon		6					2		1						2		
Madison		8							9				4		11		
Martin									15				1		6	1	

STATEMENT C—CONTINUED.

Counties.	Fraud.	Gambling.	House Breaking.	House Burning.	Incest.	Injury to Prop-erty.	Injury to Stock.	Illegal Registra-tion.	Larceny.	Larceny and Re-ceiving.	Libel.	Manslaughter.	Murder—First Degree.	Murder—Second Degree.	Miscellaneous.	Malpractice in Office.	Misdemeanor.
Sampson			1			1			18	1				1	12		2
Scotland						3			8	1				2	5		
Stanly																	
Stokes					2				3			1			4		1
Surry									7					3			
Swain		4				1	2		7						6		
Transylvania		1							2					1			
Tyrrell																	
Union						1			32	1				1	3		7
Vance										4							
Wake		13	15			1	2		7	91				3	3		
Warren						2			6					1	3		
Washington									8						1		
Watauga									10				1	1	2		
Wayne			1						19					2			

STATEMENT C—CONTINUED.

Counties.	Nuisance.	Obstructing Public Highway.	Obstructing River.	Perjury.	Practicing Medi- cine Without License.	Rape.	Robbery.	Retailing.	Resisting Officer.	Riot.	Selling Liquor to Minors.	Selling Liquor on Sunday.	Seduction.	Slander.	Trespass.	Removing Crops.	Not Taking Out Merchants' License.
Alamance				1	5			29							2		
Alexander					2												
Alleghany								6							3		
Anson								3	1		4					1	
Ashe					1			7									
Beaufort				1				3									
Bertie								6	1				2				
Bladen	1	1						4							4		
Brunswick			1					7	1						5	1	
Buncombe	1					1		6	1				1	2	1		
Burke																	
Cabarrus								36	2					1		1	
Caldwell		2		1			1	23						1			
Camden																	
Carteret								1									
Caswell								4									

[illegible]

STATEMENT C—CONTINUED.

Counties.	Nuisance.	Obstructing Pub. Highway.	Obstructing River.	Perjury.	Practicing Medi- cine Without License.	Rape.	Robbery.	Retailing.	Resisting Officer.	Riot.	Selling Liquor to Minors.	Selling Liquor on Sunday.	Seduction.	Slander.	Trespass.	Removing Crops.	Not Taking Out Merchants' License.
Guilford				3				15					1				
Halifax									1								
Harnett						1		1							1		
Haywood			3					6							2		
Henderson								10							3		
Hertford														1	1		
Hyde								1									
Iredell	3			1				1	1								
Jackson								3				1					
Johnston	1						1		1					1			
Jones				1											1	1	
Lenoir				2											2		
Lincoln						1		2						2			
Macon						1		15			1				2		
Madison				2				23						1	7		
Martin				1					1						1	1	

STATEMENT C—CONTINUED.

Counties.	Nuisance.	Obstructing Pub. Highway.	Obstructing River.	Perjury.	Practicing Medi- cine Without License.	Rape.	Robbery.	Retailing.	Resisting Officer.	Riot.	Selling Liquor to Minors.	Selling Liquor on Sunday.	Seduction.	Slander.	Trespass.	Removing Crops.	Not Taking Out Merchants' License.
Sampson			2					5	1				1		1	4	
Scotland	6			2				4									
Stanly																	
Stokes								68					1	1	2	3	
Surry								44	1					1			
Swain		2			1												
Transylvania								1							4		
Tyrrell									5								
Union				2		1		1	11					1		1	
Vance																	
Wake		1		2	2			6	3			2		1	1		
Warren								1	2						2		
Washington	1																
Watauga	1				4									1	1	2	
Wayne	2			1				6						1	1		

Wilkes			1	49		16	14					11		106
Wilson					1	1	3		2	1			1	
Yadkin		1				3						1		
Yancey						24	1							
Total	48	19	6	39	66	8	122	7	9	15	19	30	85	106

STATEMENT D—FROM JULY 1, 1903 TO JULY 1, 1904.

Counties.	Assault and Battery.	Abandonment.	Abortion.	Affray.	Arson.	Assault.	Assault with Intent to Rape.	Attempt to Burn Dwelling.	Assault with Deadly Weapon.	Attempt Poison.	Abduction.	Bestardy.	Bigamy.	Burglary—First Degree.	Burglary—Second Degree.	Burning Other than Arson.	Burgery.
Alamance		2		23		6			17								
Alexander	1			10					9								
Alleghany				8		10			8								
Anson	10			9		1						1					
Ashe	1			12		2			13								
Beaufort		1		10		2			89			1					
Bertie		2		10		2	1		28			1	1				
Bladen	5			2		5						2					
Brunswick	8					1			7							3	
Buncombe		3		67	1	5	3		68				1	1		1	2
Burke																	
Cabarrus		1		13		8	2		26								
Caldwell		1		2		33			1								
Camden				2					8								
Carteret	8			2					1								
Caswell	1			8		6			1		1					2	

STATEMENT D—CONTINUED.

Counties.	Assault and Battery.	Abandonment.	Abortion.	Atty.	Arson.	Assault.	Assault with Intent to Rape.	Attempt to Burn Dwelling.	Assault with Deadly Weapon.	Attempt Poison.	Abduction.	Bastardy.	Bigamy.	Burglary—First Degree.	Burglary—Second Degree.	Burning Other than Arson.	Burgery.
Guilford	1	1	1	18	1	29	1	1					1		1		
Halifax		1		17		16											
Harnett	1			3					7								
Haywood		2		6			3		34							2	
Henderson				8		18			1							1	
Hertford		1		7		3	1		1							2	
Hyde		2		2					9								
Iredell																	
Jackson	1			5					11								
Johnston	1			11		1	1		22								
Jones	7	1				1			2								
Lenoir	9	1		10		6	1		34								
Lincoln	23			5					2			1					
Macon				9		8											
Madison	2	1		11		2			15								
Martin	2	1		8	1				37						2	1	

STATEMENT D—CONTINUED.

Counties.	Assault and Battery.	Abandonment.	Abortion.	Affray.	Arson.	Assault.	Assault with Intent to Rape.	Attempt to Burn Dwelling.	Assault with Deadly Weapon.	Attempt Poison.	Abduction.	Bastardy.	Bigamy.	Burglary—First Degree.	Burglary—Second Degree.	Burning Other than Arson.	Burgery.
Sampson	9				1	8			14								
Scotland						1			15				1				
Stanly																	
Stokes	1	1					1		40								
Surry				5		1	1		22								
Swain	1			8					12								
Transylvania						10											
Tyrrell		1		9			1		8								
Union	14			6		1			12		1		1				
Vance				10	1		1		9					1			
Wake		3		13		1			74						1		
Warren				9		1	1		12							1	
Washington	12	2		19					8								
Watauga	2			6					13							1	
Wayne				8					20				1				

STATEMENT D—CONTINUED.

Counties.	C. C. W.	Compounding a Felony.	Conspiracy.	Cruelty to Animals.	Counterfeiting.	Concealing Birth of Child.	Disorderly House.	Disposing Mortgaged Property.	Disturbing Meetings.	Escape.	Embezzlement.	Fornication and Adultery.	Failure to List Taxes.	False Pretense.	Forcible Trespass.	Forgery.	Failure to Work on Road.
Alamance	6			6				1	4			4	1	2	8		
Alexander	5							1	3			2			7		
Alleghany	7			1				1	2			2	2				1
Anson	13							2	1			2		4	2	1	7
Ashe	6			1			3		2					2	1		
Beaufort	13			1								1		2			
Bertie	5						1	1	2	1		6			1		
Bladen	5							5				4		4	5	1	
Brunswick	3						2					4					
Buncombe	97		2						3		4	19		13	21	7	
Burke																	
Cabarrus	11						1	2	1			2		3	4		
Caldwell	11											6	1		1	1	
Camden																	
Carteret	1																
Caswell	5								1								4

Catawba	12									1	1	2	14	1	4	5
Chatham	2												4			
Cherokee	16								2	4			2	1	1	
Chowan	4								1		1	1	4		2	
Clay	4										1		2	1	2	1
Cleveland	8												1			
Columbus	8							1					9	1	1	
Craven	21							4	5				6	1	1	1
Cumberland	4							1					3	1	5	
Currituck	1												2			
Dare													2		2	
Davidson	15						2				1		13	1	2	
Davie	15									2			6		2	
Duplin	1									2			4			
Durham	21								2		3		2	2	1	2
Edgecombe	13						2						2	3		
Forsyth	45								2	2			10	1	14	1
Franklin	9					5					2		3	2		
Gaston	18										1	1	9	2		
Gates	5						1						2			
Graham	17												2		1	
Granville	6												10	2	5	
Greene	39						6				2	1	10	2	1	

STATEMENT D—CONTINUED.

Counties.	C. C. W.	Compounding a Felony.	Conspiracy.	Cruelty to Animals.	Counterfeiting.	Concealing Birth of Child.	Disorderly House.	Disposing Mortgaged Property.	Misleading Meetings.	Escape.	Embezzlement.	Pornication and Adultery.	Failure to List Taxes.	False Pretense.	Forcible Trespass.	Forgery.	Failure to Work on Road.
Guilford	27						1		5		1	2				3	
Halifax	11			1													
Harnett	5																
Haywood	11							1	5			9			1	1	1
Henderson	13							4	5		1	3		4	3	1	
Hertford	5						1					2			1		
Hyde														4			
Iredell																	
Jackson	13								1			1		3			
Johnston	10			1	1						1	1				1	
Jones	1			1												1	
Lenoir	34			1								4		1		3	
Lincoln	7					1	2		2			5		1	3		
Macon	21			1					2	1	1	6					
Madison	9			1		1						12					2
Martin	12			3				1				6	1	2			

McDowell.....	45									1	10			1	5	2	
Mecklenburg.....	19									2	2				3		
Mitchell.....	13									1	4			2	3		
Montgomery.....	10									2	8			1	3		
Moore.....	22									1	2			1	3		
Nash.....	30									14	6			3	7		
New Hanover.....	6									3	5				4		1
Northampton.....	2									1	4				2		1
Onslow.....	4									1	1			1	3		1
Orange.....																	
Pamlico.....	11									1	2						
Pasquotank.....	2									3	4			3	1	1	
Pender.....	9										21						
Perquimans.....	1																
Person.....	83									4	4	19		1	16		
Pitt.....	4									1							
Polk.....	8									1	2	1					
Randolph.....	13											2		1	1		
Richmond.....																	
Robeson.....	23									3	4	29			4	2	
Rockingham.....	21										6	2		4	1	2	
Rowan.....	11									3	7			1	11		1
Rutherford.....																	

STATEMENT D—CONTINUED.

Counties.	C. C. W.	Compounding a Felony.	Conspiracy.	Cruelty to Animals.	Counterfeiting.	Concealing Birth of Child.	Disorderly House.	Disposing Mortgaged Property.	Disturbing Meetings.	Escape.	Embezzlement.	Fornication and Adultery.	Failure to List Taxes.	False Pretense.	Forcible Trespass.	Forgery.	Failure to Work on Road.
Sampson	2													1	1	1	
Scotland	4			1					3			2			1		
Stanly																	
Stokes	11						1	4	2			13		1	4		
Surry	15						1		2						6		
Swain	9			1					1			6		1	1		
Transylvania	1						2		6			1		4			
Tyrrell				1					1								
Union	14						1	1	2		1	5		1	1		
Vance	5							1				2					
Wake	36			6				1		4	7	3	39	4	1	2	
Warren	5			1								4	5				
Washington	1													2			
Watauga	16			2			1		3			6		1			
Wayne	15											4	1		1	2	

STATEMENT D—CONTINUED.

Counties.	Fraud.	Gambling.	House Breaking.	House Burning.	Incest.	Injury to Prop-erty.	Injury to Stock.	Illegal Registra-tion.	Larceny.	Larceny and Re-ceiving.	Libel.	Manslaughter.	Murder—First Degree.	Murder—Second Degree.	Miscellaneous.	Malpractice in Office.	Misdemeanor.
Alamance.		12							18				1		7		
Alexander									9						8		
Alleghany						2			1						8		
Anson.		1	1			2			6	2			1		4		
Ashe.							1		8				1		8		
Beaufort			1						11				2	2	5		
Bertie.							3		13			1	4		4		
Bladen.				1					4						1		
Brunswick			3				2		15			1			7		
Buncombe		11	1	3		2	2		46	40		2	1	4	44		1
Burke.																	
Cabarrus		1				1			25				1	1	13		
Caldwell	1								11						13		
Camden			1			1	3								1		
Carteret									2						2		
Caswell			2						5						9		

Catawba					23				2	1		
Chatham		2			4		1			3		3
Cherokee				1	2		2			1		1
Chowan				1	6							6
Clay							3					
Cleveland		1			13					3		2
Columbus	1				8					1		
Craven		2	1		13					1		9
Cumberland					11		1		3	2		7
Currituck					3							
Dare					1							
Davidson		2	1		2		6					4
Davie							10			1		
Duplin					1		5			2		
Durham		4			43		2	1				17
Edgecombe		11	1				15	6	2			3
Forsyth		29			56				1	2	1	18
Franklin		1			17						3	4
Gaston		5	1		33							6
Gates					2							4
Graham					4					1		1
Granville					14					1		
Greene				1	8		1			1		17

STATEMENT D—CONTINUED.

Counties.	Fraud.	Gambling.	House Breaking.	House Burning.	Incest.	Injury to Prop-erty.	Injury to Stock.	Illegal Registra-tion.	Larceny.	Larceny and Re-ceiving.	Libel.	Manslaughter.	Murder—First Degree.	Murder—Second Degree.	Miscellaneous.	Malpractice in Office.	Misdemeanor.
Guilford		2							58					3	30		1
Halifax		3							14								
Harnett									1						1		
Haywood									4	5					19		
Henderson									10						9		
Hertford					2				6						1		
Hyde							2		2						4		1
Iredell																	
Jackson							1		5				4		9		
Johnston			3			1				2		1			4		
Jones									1				1		5		1
Lenoir		10	2			1			18	6			3	1	23		2
Lincoln		4							3						11		
Macon						4			1					1	1	1	
Madison		1					1		6						4		
Martin	1						1			12					2		1

STATEMENT D—CONTINUED.

Counties.	Fraud.	Gambling.	House Breaking.	House Burning.	Incest.	Injury to Property.	Injury to Stock.	Illegal Registration.	Larceny.	Larceny and Receiving.	Libel.	Manslaughter.	Murder—First Degree.	Murder—Second Degree.	Miscellaneous.	Malpractice in Office.	Misdemeanor.
Sampson									4						4		
Scotland			2						6	3				2	6		
Stanly																	
Stokes						4			1				1		2	1	
Surry						1			6	1					1		
Swain		3					2		9						2		
Transylvania															3		
Tyrrell									1								
Union									5	1			1		5		1
Vance		1								13					3		
Wake		4	14			1			17	55			3		10		
Warren												1			6		
Washington							4		6	1			1		5		
Watauga						1			2						8		
Wayne		8							20	5				1	5		1

STATEMENT D—CONTINUED.

Counties.	Nuisance.	Obstructing Public Highway.	Obstructing River.	Perjury.	Practicing Medi- cine Without License.	Rape.	Robbery.	Retailing.	Resisting Officer.	Riot.	Selling Liquor to Minors.	Selling Liquor on Sunday.	Seduction.	Slander.	Trespass.	Removing Crops.	Not Taking Out Merchants' License.
Alamance	6				2			18	1					2	4		
Alexander								17	3								
Alleghany								3							1		
Anson								3									
Ashe								14	1				1		1		
Beaufort								17	3								
Bertie								3	1		1	1	1			1	
Bladen		2						5	1						2	1	
Brunswick								1							3	4	1
Buncombe		1			7	1	1	29						2		2	
Burke																	
Cabarrus	1							40							3	2	
Caldwell		1						11					3		5		
Canden									1								
Carteret			1					1				1			1		
Caswell								4								1	

STATEMENT D—CONTINUED.

Counties.	Nuisance.	Obstructing Public Highway.	Obstructing River.	Perjury.	Practicing Medi- cine Without License.	Rape.	Robbery.	Retailing.	Resisting Officer.	Riot.	Selling Liquor to Minors.	Selling Liquor on Sunday.	Seduction.	Slander.	Trespass.	Removing Crops.	Not Taking Out Merchants' License.
Guilford	2							9							2		
Halifax									1							1	
Harnett									1							2	
Haywood					1			16									
Henderson		1		1				5						1	3		
Hertford								2	2								
Hyde								4	1								
Iredell																	
Jackson								4							4	1	
Johnston								1	1						2		
Jones									1						3		
Lenoir				1			1	2				1				1	
Lincoln								7						2			
Macon								17				1			1		
Madison	2							7						1			
Martin		1						2	5		3					1	

[illegible]

STATEMENT D—CONTINUED.

Counties.	Nuisance.	Obstructing Public Highway.	Obstructing River.	Perjury.	Practicing Medi- cine Without License.	Rape.	Robbery.	Retailing.	Resisting Officer.	Riot.	Selling Liquor to Minors.	Selling Liquor on Sunday.	Seduction.	Slander.	Trespass.	Removing Crops.	Not Taking Out Merchants' License.
Sampson					2			16				2				1	
Scotland					2			9									
Stanly																	
Stokes								87					1	1			
Surry							1	80						1			
Swain	4							6	3					2			
Transylvania				1				14							2		
Tyrrell								1	1								
Union				1				12					1		3	1	
Vance				1												1	
Wake	1					1		3	3			1	1			1	
Warren									1					1	1	1	
Washington	2																
Watauga	2			2	4	1		11	1								
Wayne			1					4									

Wilkes	1					51	1				4	1				
Wilson	1					12	2		8		1	3				
Yadkin	7					5					2					
Yancey																
Total	56	9	2	23	26	12	7	835	155	9	24	44	14	27	80	40

STATEMENT E.—GENERAL CONSOLIDATED STATEMENT,
JANUARY 1, 1889,

	From Jan. 1, 1889, to July 1, 1890. 18 mos.	From July 1, 1890, to July 1, 1892.	From July 1, 1892, to July 1, 1894.	From July 1, 1894, to July 1, 1896.
No. of criminal actions disposed of -----	10,437	13,271	14,537	17,079
Males -----	9,281	12,006	13,255	15,693
Females -----	1,152	1,257	1,273	1,386
Corporations -----	4	8	9	
Total -----	10,437	13,271	14,537	17,079
White -----	6,008	7,666	7,780	9,125
Colored -----	4,414	5,584	6,719	7,918
Indians -----	16	21	29	36
Corporations -----	4		9	
Total -----	10,437	13,271	14,537	17,079
Convictions, including submissions -----	6,326	8,513	9,454	11,258
Acquitted -----	1,774	2,025	2,550	2,822
Nolle pros -----	2,192	2,649	2,437	2,929
Otherwise disposed of -----	145	84	96	70
Total -----	10,437	13,271	14,537	17,079
Murder—first degree* -----	96	154	125	82
Murder—second de- gree, Laws 1893 -----			49	76
Manslaughter -----	15	32	28	33
Rape -----	25	23	10	28
Assault with intent to rape † -----			53	59
Arson -----	14	12	11	47
Burglary—first de- gree ‡ -----	54	61	15	14
Burglary—second de- gree -----			35	51
Forgery -----	68	68	77	99
Larceny -----	1,769	2,188	2,493	2,886
Other crimes and mis- demeanors -----	8,396	10,728	11,641	13,704
Total -----	10,437	13,271	14,537	17,079

*Murder divided into two degrees by chapter 85, Laws 1893.

†Heretofore tabulated as simple assault.

‡Heretofore tabulated under the single head burglary.

EMBRACING THE REPORTS OF CRIMINAL ACTIONS FROM
TO JULY 1, 1904.

From July 1, 1896, to July 1, 1898.		From July 1, 1898, to July 1, 1900.		From July 1, 1900, to July 1, 1902.		From July 1, 1902, to July 1, 1903.		From July 1, 1903, to July 1, 1904.	
	18,541		16,625		17,610		9,851		9,633
17,110		15,345		16,372		9,082		8,934	
1,431		1,280		1,238		769		699	
	18,541		16,625		17,610		9,851		9,633
9,408		8,625		9,237		5,273		4,890	
9,070		7,957		8,349		4,566		4,731	
68		43		24		12		12	
	18,541		16,625		17,610		9,851		9,633
12,041		10,845		12,019		6,488		6,602	
2,933		2,324		2,238		2,133		1,238	
3,345		3,301		3,159		1,173		1,750	
222		155		194		57		43	
	18,541		16,625		17,610		9,851		9,633
101		160		107		48		60	
68		29		84		38		35	
29		25		60		13		33	
42		35		37		16		12	
56		64		51		34		39	
16		21		13		16		15	
28		51		35		22		17	
43		25		45		12		7	
115		93		70		31		46	
2,977		2,690		1,907		1,238		1,023	
15,077		13,432		15,201		8,383		8,564	
	18,541		16,625		17,610		9,851		9,633

STATEMENT F—EMBRACING REPORTS FROM JULY 1, 1902, TO
JULY 1, 1903.

JULY 1, 1902, TO JULY, 1, 1903.	No.	Total.
Total number criminal actions disposed of -----		9,851
Males -----	9,082	
Females -----	769	
Total -----		9,851
White -----	5,273	
Colored -----	4,566	
Indians -----	12	
Total -----		9,851
Convictions, including submissions -----	6,488	
Acquitted -----	2,133	
Nolle pros -----	1,173	
Otherwise disposed of -----	57	
Total -----		9,851
JULY 1, 1903, TO JULY 1, 1904.		
Total number criminal actions disposed of -----		9,633
Males -----	8,934	
Females -----	699	
Total -----		9,633
White -----	4,890	
Colored -----	4,731	
Indians -----	12	
Total -----		9,633
Convictions, including submissions -----	6,602	
Acquitted -----	1,238	
Nolle pros -----	1,750	
Otherwise disposed of -----	43	
Total -----		9,633

STATEMENT F—CONTINUED.

Name of Offense.	July 1, 1902, to July 1, 1903.	July 1, 1903, to July 1, 1904.
Assault and battery	304	301
Abandonment	46	53
Abortion	2	1
Affray	817	819
Arson	16	15
Assault	447	420
Assault with intent to commit rape	34	39
Attempt to burn dwelling	1	—
Attempt to poison	3	2
Assault with deadly weapon	1,416	1,437
Abduction	7	4
Bastardy	13	16
Bigamy	15	12
Burglary—first degree	22	17
Burglary—second degree	12	7
Burnings, other than arson	16	20
Buggery	7	8
Carrying concealed weapon	1,267	1,123
Compounding felony	—	—
Conspiracy	21	7
Cruelty to animals	72	74
Counterfeiting	—	—
Concealing birth of child	11	7
Disorderly house	46	48
Disposing of mortgaged property	61	50
Disturbing meetings	140	92
Escape	27	20
Embezzlement	42	33
Fornication and adultery	406	337
Failure to list tax	506	543
False pretense	126	116
Forcible trespass	188	267
Forgery	31	46
Failure to work road	15	31

STATEMENT F—CONTINUED.

Name of Offense.	July 1, 1902, to July 1, 1903.	July 1, 1903, to July 1, 1904.
Fraud	43	3
Gambling	206	230
House Breaking	44	50
House Burning	1	6
Incest	12	3
Injury to property	76	55
Injury to stock	23	40
Illegal registration		
Larceny	1,238	1,023
Larceny and receiving	159	237
Libel		7
Manslaughter	13	33
Murder—first degree	48	60
Murder—second degree	38	35
Miscellaneous	449	601
Malicious mischief	2	
Malpractice in office	14	3
Nuisance	48	56
Obstructing public highway	19	9
Obstructing river	6	2
Perjury	39	23
Practicing medicine without license	66	26
Rape	16	12
Robbery	8	7
Retailing	699	835
Selling liquor to minors	9	24
Selling liquor on Sunday	15	44
Slander	30	27
Seduction	19	14
Trespass	105	80
Resisting officer	122	155
Riot	7	9
Misdemeanor	85	19
Not taking out license	105	
Removing crops		40

OPINIONS.

APPENDIX.

OPINIONS OF THE ATTORNEY-GENERAL.

REWARDS, WHEN OFFICERS ENTITLED TO.

ATTORNEY-GENERAL'S DEPARTMENT,
RALEIGH, N. C., January 6, 1903.

To His Excellency, CHARLES B. AYCOCK, Governor.

DEAR SIR:—I have the honor to acknowledge the receipt of your favor of the 3d instant, with enclosures in the matter of the application of Mr. J. E. Reed for the reward offered by your Excellency for the apprehension and delivery of W. M. L. Creasman to the proper authorities of the county of Buncombe. Replying thereto, I beg to submit the following: Mr. Reed, the applicant, is now sheriff of Buncombe County, but in his affidavit which accompanies the papers submitted he alleges that "before his qualification as sheriff deponent had succeeded, at considerable expense to himself, in locating the fugitive in the city of Decatur, State of Illinois." If Mr. Reed had conducted this investigation which led to the apprehension of the fugitive after his induction into the office of sheriff of Buncombe County, I would have no hesitation in declaring that, in my opinion, he would not be entitled to participate in the reward. With reference to the law authorizing rewards to be offered, Chief Justice Pearson, in *Malpass v. Caldwell*, 70 N. C., 130, says: "The policy of the statute * * * is to call in volunteers by the offer of a bounty." And in *Ex-parte Gore*, 57 Miss., 251, the Supreme Court of that State says: "The reward offered * * * was designed to induce the arrest of fleeing homicides by persons not under an official obligation to do it."

It is difficult to conceive of a case in which a public officer who by virtue of his office becomes a conservator of the peace and whose duty it is to be prompt and vigilant in the apprehension of fleeing criminals can, with due regard to public policy, be permitted to participate in a reward. "The policy of law which has in view the safety of the community is said to be against it; and self-interest * * * will cause him to be indifferent and even remiss until prompted by what he himself may deem a sufficient offer." In a New York case the court, speaking of this proposition, says it is "fraught with every kind of mischief." In *Kick v. Merry*, 23 Mo., 72, the Supreme Court of that State says: "To permit an officer to stipulate

for extra compensation for services to which the public was entitled would lead to great corruption and oppression in office. It would follow that whenever a crime was committed, instead of speedy efforts for the arrest of the offender there would be a holding back in the hope that there would be a reward given for his apprehension. If once the habit of taking a reward is introduced, nothing will be done unless the service is previously purchased by extra pay." And, in *Lees v. Colgan*, 120 Cal., 262, the Supreme Court of that State, citing this case, says: "This reasoning undoubtedly applies to rewards offered by the State as fully as rewards offered by private parties."

Throop on Public Officers, section 486, citing *Day v. Townsend*, 70 Iowa, 538, says in this case: "It has been held that a deputy sheriff is not entitled to compensation offered by an individual for procuring the return from another State of a fugitive from justice from his own State, where the statute fixed the compensation of a State agent employed for such a purpose and forbade any public officer from receiving any additional compensation for such services." The author adds, however, "*But in the absence of such statutory provisions the contrary ruling has been made elsewhere on the ground that it was not the officer's duty to go out of the State to arrest a criminal.*"

The statutory provisions which limit the latter doctrine mentioned by Throop obtain in this State. Section 1169 of The Code authorizes the Governor to employ a special agent to pursue and apprehend a fugitive from justice charged with felony, and section 1170 provides the method of compensating the agent for his services. Section 2082 of The Code declares: "No sheriff shall demand, exact, take or receive any greater fee or reward whatsoever, nor shall have any allowance, reward or satisfaction from the public for any service by him done other than such sum as the court shall allow for *ex officio* services and the allowance given and provided by law."

It would be contrary to public policy and violative of well-established legal principle to permit an officer whose oath of office requires him to use his best abilities in the cause of justice to participate in a reward offered for the apprehension and conviction of a fugitive. I rest my opinion that the applicant in this case is entitled to the reward solely upon the ground that it appears from his affidavit filed that the services rendered by him, which culminated in the apprehension and return of the fugitive to this State, were performed before he assumed the functions of the office of sheriff of Buncombe County. I do not think that his induction into this office should deprive him of the reward practically earned before he assumed the duties and obligations imposed upon him by virtue of his position as sheriff of Buncombe County.

Respectfully,

ROBT. D. GILMER,
Attorney-General.

TAXES DUE FROM INSOLVENTS, WHEN SHERIFF ENTITLED
TO CREDIT FOR.

ATTORNEY-GENERAL'S DEPARTMENT,

RALEIGH, N. C., January 9, 1903.

HON. B. F. DIXON, *State Auditor*.

DEAR SIR:—In the matter of the application of John D. Kerr, Esq., of Clinton, attorney for J. M. Marshburn, ex-sheriff of Sampson County, for the refunding of certain moneys alleged to be due Mr. Marshburn on account of taxes paid into the State Treasury, I have the honor to submit the following:

Mr. Marshburn's claim for reimbursement consists of seven items, aggregating \$530.57 and extending through a period of years from 1895 to 1900, during which time he was sheriff of the county of Sampson. I have given this matter careful consideration and have reached the conclusion that this claim cannot be allowed by your department except possibly as to two of the items.

Exhibits C, D and E, appearing in the papers submitted by Mr. Kerr, constitute the basis of his claim for the return of the sum of \$399.05 on account of taxes accounted for by him and due from insolvent tax-payers, or those who had removed from the county, leaving no property out of which the taxes can be collected. Chapter 558, section 1, subsection 2, Public Laws of 1901, declares: "And no tax due from insolvents shall be credited to the sheriff in the settlement with the Auditor except such as shall be allowed by the board of commissioners, a list whereof containing the names and amounts, and subscribed by the sheriff, shall be returned by the sheriff to the board of commissioners. * * * Such list shall be recorded in the commissioners' docket and a copy shall be returned to the Auditor of the State on or before the day of the settlement of the sheriff with the Treasurer." It is to be specially noted that the law requires that the list of insolvents shall be returned to the Auditor "*on or before the day of settlement with the Treasurer.*" (Section 94, chapter 7, Public Laws of 1901, fixes the time for the sheriff to settle the State taxes "on or before the second Monday in January in each year." In the same section it is provided that the State Treasurer may extend the time on a sufficient amount to cover the State taxes on land sales only in each county to the first Monday in May.) In *Commissioners v. Wall*, 117 N. C., 377, chapter 326, section 38, subsection 2, Acts 1891, which is identical with section 1, subsection 2, chapter 558, Public Laws 1901, was construed by the Supreme Court. In this case the sheriff and the sureties on his bond were sued, and the sheriff claimed a credit on account of his insolvent list of tax-payers, but the Court said: "The defendant, not having * * * had the allowance made him by the county commissioners

for insolvents at the *time* and manner prescribed by law, cannot have them allowed to him now by the courts in an action for the balance due by him on the tax list." And we have seen that the time for having this allowance made is "*on or before the day of settlement of the sheriff with the State Treasurer.*" In support of this view, see section 95, subsections 1, 2 and 3, chapter 7, Public Laws 1901. In *Commissioners v. Wall, supra*, the defendant contended that his tax books had been seized and placed in the hands of another party, and for that reason he had been unable to make out his insolvent list of tax-payers to which he would be entitled to credit in his settlement. But the Court said, in reply to this contention, that "The attachment of the tax books was subsequent to the time he should have settled the taxes and have had his insolvent list allowed, and can be no defense."

Exhibits A and B, amounting to \$59.34, constitute Mr. Marshburn's claim for reimbursement on account of error and for other causes. The expression "and for other causes" is too indefinite to be considered in this connection; so the basis for the return of this amount must rest upon the "error" alleged to have been committed. In chapter 7, section 95, claim for error rests upon the same footing as the claim for insolvents, and I am therefore of the opinion that these two items cannot be allowed by your department.

Exhibits F and G, amounting to \$72.18, represent Mr. Marshburn's claim for reimbursement for taxes accounted for on lands sold and purchased by the county. Section 40, chapter 58, Public Laws 1901, brought forward from machinery acts of preceding years, provides that "Whenever real estate is purchased by county commissioners or by city or town, the sheriff of the county wherein the real estate is situated shall not be obliged to account to the State Treasurer or to any person for the amount of taxes due until the county commissioners or city or town authorities have sold the certificate or certificates of purchase from the real estate sold." As far as I am able to see, it appears that Mr. Marshburn has complied with the provisions of the law in this particular, and I am of the opinion that it would be proper to return to him the sum of \$72.18, this amount having been paid by him into the State Treasury, when the law did not require him to account for the same. The certificates of sale for these lands for taxes in Sampson County should be in the hands of the county commissioners, and may be disposed of and the State's part of these taxes returned to the State Treasurer.

I am strongly of the opinion that all claims for insolvents, uncollectables and errors should be presented to your department by the sheriffs or tax collectors of the various counties on or before the date fixed by law for the making of their settlements. Any other rule would encourage laxity in the collection of taxes, and, as was observed by the Supreme Court, in *Commissioners v. Wall, supra*,

"Public policy requires promptness in these settlements; otherwise both the county and State governments might become seriously embarrassed for lack of necessary funds." Whatever moral or equitable claim Mr. Marshburn may have for the return of these moneys to him from the State Treasury is a matter which addresses itself to the Legislature.

Respectfully,

ROBT. D. GILMER,
Attorney-General.

ORGANIZATION TAX—CHARTERS GRANTED BY GENERAL
ASSEMBLY.

ATTORNEY-GENERAL'S DEPARTMENT,

February 12, 1903.

HON. B. R. LACY, *State Treasurer.*

DEAR SIR:—I have the honor to acknowledge the receipt of your favor of yesterday's date, in which you ask my opinion in regard to the organization tax to be paid by parties applying to the General Assembly for charter of incorporation. Inasmuch as some confusion has arisen, I have given the matter a careful consideration, and beg to submit the following:

Section 696 of The Code provides that "Every bill introduced in either house of the General Assembly to incorporate any company * * * shall be accompanied by a receipt from the State Treasurer for \$100," and by section 2004 of The Code the sum of \$250 was required to be paid before any bill to incorporate a railroad company could be introduced. In 1885 both of the above sections of The Code, to-wit, sections 696 and 2004, were amended by striking out the words "one hundred dollars" in the former section and "two hundred and fifty dollars" in the latter, and inserting the words "twenty-five dollars," thus reducing the organization tax on all corporations, including railroads, to twenty-five dollars. Chapters 33 and 93. Laws 1885.

And by chapter 36 of the Laws of 1885, section 696 was further amended so as to provide that the \$25 tax should not be necessary on "bills to amend any act where the business is unchanged." So, from 1885 to 1893 the tax required on all corporations was \$25, and no tax on an amendment which did not change the nature of the business.

Section 5, chapter 318, Public Laws 1893, is in the following words: "Every bill introduced in either house of the General Assembly to incorporate any company, including railroad companies, shall be accompanied by a receipt from the State Treasurer for \$50."

The effect of this law was to increase the organization tax on all

corporations to \$50, and does not purport to affect chapter 36 of the Laws of 1885, which provided that no tax should be necessary if the business should remain unchanged. It will be observed that in both the Acts of 1885 and 1893 railroad corporations were placed upon the same footing as all other corporations with reference to the amount of tax required. From these various acts of the General Assembly it would therefore seem clear that from 1893 to 1901 the organization tax on all corporations was \$50, and amendments \$25; and if the amendments did not change the nature of the business no tax was required. A confusion has arisen in regard to the proper interpretation of sections 96 and 97, chapter 2, Public Laws of North Carolina, session 1901. Section 97 is in the following words:

"Every bill introduced in either house of the General Assembly to incorporate any private corporation shall be accompanied by a receipt from the State Treasurer showing that there has been paid an organization tax in double the amount prescribed in the foregoing section, and in addition thereto each private corporation (railroad, insurance and banking companies excepted) shall, before organization, file and have recorded a copy of the bill creating it in the office of the Secretary of State, and shall thereupon become subject to the provisions of this act."

The similarity of this language to that of section 5, chapter 318, Laws 1893, shows that this section did not escape the attention of the framer of said section 97. The language of the latter section is plain: "Every bill * * * to incorporate any private corporations." * * * In order to exclude railroad, insurance and banking companies from these taxing provisions we must reach the conclusion that they do not belong to that class of corporations designated as "private corporations." Such a conclusion is not sustained by the authorities. In the Dartmouth College case, 4 Wheaton, p. 518, the Supreme Court of the United States says: "Strictly speaking, public corporations are such only as are founded by the government for public purposes, where the whole interests belong also to the government." In Clark and Marshall on Private Corporations, Vol. I, section 31, it is said: "A public corporation is a corporation created merely for purposes of government, and a private corporation is one that is created for other purposes than those of government. * * * To make a corporation public as distinguished from private, it must be founded by the government for public purposes and the whole interests must belong to the government."

In Elliott on Private Corporations, 2d Ed., section 7, the following language is used: "The term *quasi* public corporation is often used to designate a corporation properly classed as private, but which is engaged in a business of such a nature that the public has an interest therein, as grain elevators, railway, telegraph, telephone, gas and water companies. The private property which is devoted to such pur-

poses becomes "affected with a public interest and ceases to be *juris privati* only," and may be controlled by the public for the public good to the extent of the interest thus created. But it is a misnomer to call such corporations *quasi* public corporations. A railway may be a *quasi* public highway, but the corporation is private."

A bank is not a public corporation even if it is a depository for public funds or if the State owns a part of the capital stock. Clark and Marshall, *supra*, section 31 (b). Neither is an insurance company. We must assume that the Legislature used the words "private corporations" in accordance with this well-defined legal classification. It is obvious that they were employed to distinguish these corporations from those of a public nature, such as the incorporation of cities and towns or of any corporation designed to exercise governmental functions and for which no organization fee should be charged.

After a very careful investigation, I am of the opinion that the proper interpretation of section 97, chapter 2, Laws 1901, is to require that every bill introduced in either house of the General Assembly to incorporate any corporation except that of a public character as herein defined, should be accompanied by a receipt from your department for an organization tax in double the amount as prescribed in section 96; and furthermore, that every private corporation incorporated by the General Assembly shall file a copy of the bill creating it in the office of the Secretary of State, except that this provision requiring a copy of the bill to be filed in the office of the Secretary of State does not apply to railroad, insurance and banking companies.

I understand that the General Assembly now in session has amended section 97, chapter 2, Public Laws of 1901, by inserting after the word "corporation" in line two the words "or to amend the charter thereof." If so, the tax on bills amending the charter of any private corporation will be in double the amount as prescribed in said section 96.

Respectfully,

ROBT. D. GILMER,
Attorney-General.

PRIVILEGE TAX ON CORPORATIONS—CAPITAL STOCK—NON-TAXABLE BONDS.

ATTORNEY-GENERAL'S DEPARTMENT,

RALEIGH, N. C., February 16, 1903.

HON. B. R. LACY, *State Treasurer.*

DEAR SIR:—I have the honor to acknowledge the receipt of your favor of recent date, with enclosure of Mr. N. B. Rankin, president

of the Wilmington Underwriters Insurance Company of Wilmington, N. C., requesting my opinion upon the matter submitted therein. I have given the same careful consideration and beg to submit the following:

By chapter 98, section 3, and chapter 138, section 5, Public Laws of North Carolina, session 1879, State bonds are exempt from taxation. This exemption, in my opinion, protects them from liability to taxation as property, but does not authorize the corporation to deduct them from its capital stock in order to determine the amount of its privilege tax.

The Supreme Court of the United States has held that where the tax imposed was upon the *privilege* of transacting the business as a corporation and not upon its *property*, the tax was not invalidated on account of the fact that a portion of the capital stock of the company was invested in United States securities which by law were exempt from taxation. Inasmuch as there is some contest in regard to this question, I beg to direct your attention to some of these cases.

In *Society for Savings v. Coite*, 6 Wallace, 594 it appeared that the Legislature of Connecticut in 1863 enacted that the savings banks in the State should make annual return of their deposits and pay a tax thereon equal to three-fourths of one per cent. The court held that this tax was a franchise tax and not a tax on property, and that in ascertaining the amount of the franchise tax the banks were not authorized to deduct the amount of their deposits invested in securities of the United States declared by Congress to be exempt from taxation.

To the same effect are the following cases: *Provident Institution v. Mass.*, 6 Wallace, 611; *Hamilton Company v. Mass.*, *Id.*, 632.

In *People v. Home Insurance Company*, 92 N. Y., 328, a similar question arose and the Supreme Court of the State held that such taxes upon corporations are "taxes upon franchises, not upon property, and the fact that the dividends, a portion of which is derived from securities exempt from taxation, furnish the basis for computing the amount of the tax, does not invalidate it." This case was carried to the Supreme Court of the United States, and the judgment of the Supreme Court of New York was affirmed. See *Home Insurance Company v. New York*, 119 United States, 129. A motion was made for a rehearing and the case was re-argued on March 18 and 19, 1900, and the judgment again affirmed. 134 United States, 594. In this case the authorities showing the distinction between franchise and property taxes are collated and distinguished.

The tax involved in the case submitted by Mr. Rankin is a privilege tax as distinguished from an *ad valorem* tax on the property of his company, as has been expressly decided by the Supreme Court of our State. *Wilmington Underwriters Company v. Steadman*, 130 N. C., 251.

Upon the authority of the cases hereinbefore cited I have reached the conclusion that this corporation is not authorized to deduct the \$25,000 of North Carolina bonds in computing the amount of the privilege tax, as held by your department, and should remit to you the sum of \$63.50, which is admittedly due if the amount of the bonds is not to be deducted.

Notwithstanding the fact that this corporation has expressed its willingness to abide by my decision in this matter, I beg that you will forward a copy of the same to it, and if its counsel has any opposing views to submit I would be glad to take up the case with them.

Respectfully,

ROBT. D. GILMER,
Attorney-General.

PUBLIC OFFICER—FORFEITURE OF OFFICE BY ACCEPTING
ANOTHER.

ATTORNEY-GENERAL'S DEPARTMENT,

RALEIGH, N. C., February 17, 1903.

COL. P. M. PEARSALL, *Private Secretary.*

DEAR SIR:—In your letter of recent date I am requested to give my opinion as to "what effect the acceptance of the office of the Chairman of the Board of County Commissioners has upon the holding of the office as a member of the Board of Directors of the North Carolina School for the Deaf and Dumb when both offices are held by the same person."

Replying thereto, I have the honor to submit the following:

Section 7, Article XIV of the Constitution of North Carolina, declares that "No person who shall hold any office or place of trust or profit under the United States or any department thereof, or under this State, or under any other State or government, shall hold or exercise any other office or place of trust or profit under the authority of this State or be eligible to a seat in either house of the General Assembly: *Provided*, that nothing herein contained shall extend to officers in the militia, justices of the peace, commissioners of public charities or commissioners for special purposes."

Speaking of this constitutional provision, Chief Justice Smith, in *Doyle v. Raleigh*, 89 N. C., 133, at p. 136, says: "The manifest intent is to prevent double office-holding." And Chief Justice Faircloth, in *Barnhill v. Thompson*, 122 N. C., 493, at p. 496, writing of the same section of the Constitution, observes that this "provision is plain and leaves no room for construction whenever the two places under consideration are found to be public offices." So the question arises, "Are the two places under consideration public offices?" The Su-

preme Court of the State has expressly decided "that the Directors of the Institution for the Deaf and Dumb are officers." *Nichols v. McKee*, 68 N. C., 429; *Walker v. Bledsoe, Ib.*, 457.

In *Clark v. Stanley*, 66 N. C., 59, it is said: "A public office is an agency for the State"; and in *Barnhill v. Thompson, supra*, it was held that a member of the County Board of Education is a public officer. So is a member of the Board of County Commissioners. Mechem on Public Officers, section 35.

"It is well settled that the acceptance of a second office of the kind prohibited operates *ipso facto* to absolutely vacate the first. His acceptance of the one was an absolute determination of his right to the other." Mechem, *supra*, section 429. And, as was observed in a New York case, the determination of his right to the former office is so complete that it leaves him "no shadow of title."

I am of the opinion, therefore, that the acceptance of the office of Chairman of the Board of County Commissioners by one holding the office of Director of the North Carolina School for the Deaf and Dumb absolutely vacates his right to the office as such director. The same doctrine applies to your second question relating to the member of the Board of Agriculture who has likewise been elected Chairman of the Board of County Commissioners.

Respectfully,

ROBT. D. GILMER,
Attorney-General.

LICENSE FOR OYSTER DREDGING—REVOCATION OF.

ATTORNEY-GENERAL'S DEPARTMENT,

RALEIGH, N. C., April 6, 1903.

HON. W. M. WEBB, *Oyster Commissioner.*

DEAR SIR:—Your letter of the 3d instant requests my opinion as to whether the act passed by the General Assembly at its recent session, making it unlawful to use scoops, scrapes or dredges in taking oysters from the natural oyster beds of this State between the 15th day of November and the 1st day of April, repeals that portion of section 14, chapter 250, Public Laws 1901, which permitted the use of such implements under a proper license, to the first day of May. Replying thereto, I have the honor to submit the following:

Section 2, chapter 11, Laws of North Carolina, session 1891, makes it "unlawful for any person or persons to take or catch oysters from any of the public grounds or natural oyster beds of North Carolina with any dredge, drag, scoop," etc.

By chapter 250, Public Laws of North Carolina, session 1901, this manner of taking or catching oysters from the waters therein indicated was permitted upon the issuance of a license in accordance with

the provisions of section 7 *et seq.* of the said chapter, and by section 14 of the said chapter dredging was permitted to the first day of May. The act passed by the Legislature at its last session makes it unlawful to dredge after the first day of April.

The question presented is whether the licensee under the law of 1901, is authorized to continue to catch oysters by dredging, etc., until the first day of May. I am of the opinion that he cannot.

The preservation of fish and oysters in the streams and beds of the State is a proper function of the government in the exercise of its police power. *Rea v. Hampton*, 101 N. C., 51; *State v. Connor*, 107 N. C., 931; *McCready v. State of Virginia*, 94 U. S., 391.

In *State v. Connor*, *supra*, it is said: "The State has the right to impose such limitations and restrictions upon the mode and manner of taking oysters * * * in the navigable waters of the State as it may deem wise and just and conducive to the public good."

The license issued under the Act of 1901, allowing dredging, does not establish any contractual relation between the State of North Carolina and the licensee, but it is only a permission to do an act which, without such a license, would not be allowable.

It is well established that when a license is issued for the purpose of regulating a matter over which the Legislature has a plenary power in the exercise of governmental function, that such a license is not in any sense a contract, but a mere permit which may be revoked at any time or to which new conditions may be attached. Cooley's Constitutional Limitations, p. 341; Prentice on Police Powers, p. 286; Tiedeman on State and Federal Control of Persons and Property, Vol. I, p. 500.

In the case of *Hess v. Muir*, 65 Md., 586, the Supreme Court of that State held: "That the privilege of locating oyster lots has no elements of a grant by patent, but is simply a license, revocable at the pleasure of the Legislature."

The case under consideration is not one in which the State has vested in a party the exclusive right to use and occupy a particular oyster bed, marked and staked, so as to bring it within the rule of the inviolability of a grant, in accordance with the decision of the Supreme Court in *State v. Spencer*, 114 N. C., 770.

It seems that under the authorities, as well as on principles of sound public policy, it must be decided that the license obtained no vested rights under the Act of 1901. This being so, it was competent for the Legislature to change the period allowed for dredging, and in making this change it must be assumed that that body acted in good faith for the public good. *State v. Moore*, 104 N. C., 714.

Respectfully,

ROBT. D. GILMER,
Attorney-General.

INHERITANCE TAX—HOW COMPUTED.

ATTORNEY-GENERAL'S DEPARTMENT,

RALEIGH, N. C., May 14, 1903.

HON. B. F. DIXON, *State Auditor*.

DEAR SIR:—I have the honor to acknowledge the receipt of your favor of the 12th instant, enclosing papers in the matter of the inheritance tax due by Mr. J. T. Worthington, executor of S. M. Haurahan, late of the county of Pitt, and requesting my opinion thereon. In reply I beg to submit the following:

It appears that the whole amount to be distributed under the will was \$4,960.80, and that there were two legatees or distributees, which would give to each the sum of \$2,480.40. In determining the amount of the inheritance tax due, the Clerk of the Superior Court of Pitt County deducted from each legacy the sum of \$2,000 and assessed on each share as the tax the sum of \$3.60, or on both the sum of \$7.20. I do not think that this method of computation meets the requirements of the statute.

Section 6 of the Revenue Act of 1903 provides that "From and after the passage of this act all personal property of whatever kind and nature which shall pass by will or by the intestate laws of this State * * * shall be and is hereby made subject to a tax for the benefit of the State, as follows, that is to say: Where the whole amount of said legacy or distributive share of personal property shall exceed in value \$2,000 the tax shall be," etc. Then follows five subdivisions providing for the amount to be paid "for each and every hundred dollars of the clear value of such interest," to be determined by the degree of a relationship which the party sustains to the person who died possessed of the property, seventy-five cents being assessed in those cases described in the first subdivision and to which class the legatees in the case under consideration belong."

In my opinion it was the purpose of the Legislature to exempt a legacy or distributive share from liability for the tax in all cases where the amount does not exceed \$2,000, but if the legacy or distributive share exceeds that sum it is to be taxed to the full amount, and a deduction of \$2,000 is not authorized. The tax should be imposed upon the entire legacy and not upon the excess after deducting the sum of \$2,000.

A ruling similar to that made by the Clerk of the Superior Court of Pitt County was made by the Surrogate of the County of Kings, State of New York, in the matter of the estate of Benjamin W. Sherwell, 125 N. Y., 376. The record in that case, at page 379, says: "The surrogate held that it was the intention of the Legislature that all taxable estates should be exempt from taxation to the extent of \$500, and he therefore allowed a deduction from each of the legacies in question of that amount, leaving the balance for assessment for

purposes of taxation under the act. The General Term reversed this decision, holding that the legislative intent was to limit the estates upon which the tax should be imposed." The Supreme Court of that State said: "We think their decision was clearly right. * * * If the inheritance, or the testamentary gift, amounts to five hundred dollars or more, then the act operates to create a liability in favor of the State to the extent mentioned; but if it is less, the act is wholly inoperative."

I have given the opinion of counsel careful consideration, but in examining the authorities I have reached the conclusion that his interpretation of the statute is not correct, and that the one placed upon it by your department is in consonance with the legislative purpose, and that the inheritance tax due the State in this case should be \$37.20 instead of \$7.20.

Respectfully,

ROBT. D. GILMER,
Attorney-General.

TAXATION OF PROPERTY AWAITING TRANSPORTATION.

ATTORNEY-GENERAL'S DEPARTMENT,

November 17, 1903.

HON. B. R. LACY, *State Treasurer.*

DEAR SIR:—I have the honor to acknowledge the receipt of your favor of recent date containing a copy of a communication from Messrs. McLean, McLean & McCormick to Mr. F. H. Steadman, Sheriff of New Hanover County, in regard to the liability of the Standard Tie and Pole Company to pay a tax on certain cross-ties and juniper poles alleged to be in transit at the time they were listed for taxation, under protest, by said company.

From the letter to Mr. Steadman I gather the facts to be as follows: That these cross-ties and poles had been shipped by various parties up the Cape Fear river to the Standard Pole and Tie Company and were unloaded at some point in the city of Wilmington, and remained there until a sufficient quantity of certain sizes and grades had accumulated, and were then reloaded and reshipped to their final destination.

The liability of this property to taxation presents a question not entirely free from difficulty, but, after a careful investigation of the subject, I have reached the conclusion that it was properly listed for taxation and that the company is liable for the tax at the assessed valuation, \$9,200.

As I understand the facts, the ties and poles were shipped from various points to Wilmington and awaited there for a convenient opportunity for their final transportation to their place of destination.

It was decided by the Supreme Court of the United States in *Coe v. Errol*, 116 U. S., 517, that logs cut at a place in New Hampshire, hauled down to the town of Errol on the Androscoggin river in that State, to be transported from thence up the river to Lewiston, Maine, and waited at Errol for a *convenient opportunity* for such transportation, were still part of the general mass of property of the State, and liable to taxation. In this opinion it is further said that: "When the products of the farm or forest are collected and brought in from the surrounding country to a town or station serving as an *entrepot* for that particular region, whether on a river or on a line of railroad, such products are not yet exports, nor are they in the process of exportation, nor is exportation begun until they are committed to the common carrier for transportation out of the State to the State of their destination, or have started on their ultimate passage to that State."

In *Diamond Match Company v. Ontonagon*, decided by the Supreme Court of the United States on January 19, 1903, a similar question arose. The opinion of the Court was delivered by Mr. Justice McKenna, and the case of *Coe v. Errol supra*, was largely quoted from and the doctrine of that case affirmed. In this case the Court recognized the doctrine that whenever a commodity has begun to move as an article of trade from one State to another, that interstate commerce has commenced. "But," continues the Court, "this movement does not begin until the articles have been shipped or started for transportation from one State to the other. The carrying of them in carts or other vehicles, or even floating them to the depot where the journey is to commence, is no part of that journey."

The ties and poles being "at rest" in the city of Wilmington on the first day of June, 1903, awaiting transportation to their ultimate destination, constituted property within the State and is liable to taxation.

I am of the opinion, therefore, as hereinbefore announced, that these ties and poles were properly listed, and that the taxing authorities of New Hanover County are authorized to collect the tax due thereon.

Respectfully,

ROBT. D. GILMER,
Attorney-General.

LICENSE—WHEN TRANSFERABLE.

ATTORNEY-GENERAL'S DEPARTMENT,

RALEIGH, N. C., January 20, 1904.

HON. B. R. LACY, *State Treasurer*.

DEAR SIR:—In the case of the assignment of the brokerage license from Asheville, N. C., I beg to say that I have given the matter careful consideration and beg to submit the following:

I will state that some time ago I gave your department an opinion to the effect that licenses issued under Schedule "B" of the Revenue Act were not transferable. This opinion must be construed to relate to those cases in which the license tax is imposed for the purposes of regulation by the State in the exercise of its police powers, *e. g.*, licenses to sell liquor issued under section 66 and to peddlers under section 44. In both of these cases the personal qualifications or fitness of the licensee are to be determined by a body authorized by law to pass upon the same. The universal doctrine is that in such cases the license is personal to the licensee and cannot be transferred.

The license in question was not issued by the State in the exercise of its police power for the purpose of regulating the brokerage business, but was issued in the exercise of its taxing power in the same manner as a tax was imposed on an "emigrant agent" by the Acts of 1891, chapter 75. See *State v. Moore*, 113 N. C., p. 697. In the latter cases the general doctrine seems to be that, in the absence of any statutory provision to the contrary, the licenses are assignable. I do not find in the Revenue Act any section forbidding the transferance of license, so, in reaching the conclusion to which I have arrived, I have relied upon the general doctrine which I find laid down in the books. In many States the statute provides that licenses shall not be transferred, and such was the action of our General Assembly with reference to drummers, imposed by section 28, chapter 136, Laws of 1883, which expressly provides that licenses issued under that section should not be transferable.

My conclusion is, therefore, as hereinbefore indicated, that the license in this case is transferable.

This opinion is rendered with special reference to the facts in this case, and is limited to the same.

Respectfully,

ROBT. D. GILMER,
Attorney-General.

QUALIFICATIONS PRESCRIBED IN SECTIONS 60-66 NOT APPLICABLE TO AGENCIES OF BREWERIES.

ATTORNEY-GENERAL'S DEPARTMENT,

RALEIGH, N. C., January 21, 1904.

HON. B. R. LACY, *State Treasurer.*

DEAR SIR:—I have the honor to acknowledge the receipt of your letter containing enclosure of * * * , in which my opinion is asked in regard to certain sections of the Revenue Act, and the relation of the same to section 57 thereof imposing a tax on breweries and agencies of breweries.

The point directly involved is whether the qualification clause

prescribed in section 66 of the said act relates to parties operating under the provisions of section 57. It is very clear that it does not. Sections 60 and 66 of the said act relate to the same subject-matter, and the qualification clause hereinbefore referred to appears in the latter section and is in the following language:

"No license shall be issued to any applicant under *this* section who is not a *bona fide* citizen of the United States and a legal voter of North Carolina." It thus appears that, by the express provisions of this section, the qualifications recited only obtain in those cases in which the party operates under section 66. Indeed, the language of the statute is so plain that there is no room for construction or interpretation.

Respectfully,

ROBT. D. GILMER,
Attorney-General.

TAX ON DEALERS IN PIANOS AND ORGANS.

ATTORNEY-GENERAL'S DEPARTMENT,

RALEIGH, N. C., February 8, 1904.

HON. B. R. LACY, *State Treasurer.*

DEAR SIR:—Replying to your letter containing enclosure of * * * in regard to the tax on dealers in pianos and organs under section 70 of the Revenue Act of 1903, I beg to submit the following:

The said section provides that: "Every person, firm or corporation selling pianos or organs in this State shall pay an annual license tax to the Treasurer of \$40," and, in addition thereto, a tax of forty cents on every one hundred dollars received from the sale of pianos or organs.

I am of the opinion that if the manufacturer has paid the tax prescribed by said section, and has a place of business in North Carolina, and employs agents to represent him, that is, the manufacturer, in the sale of pianos or organs, the agent of the manufacturer will be protected by the duplicate license for each county, issued to him as the agent of his principal; but if a party purchases pianos directly from the manufacturer, and establishes an agency of his own within the State, and desires to send out agents, he will have to take out a State license himself under the said section, and *his* will be protected by a duplicate license.

Respectfully,

ROBT. D. GILMER,
Attorney-General.

TAX ON DEALERS AND PARTIES ENGAGED IN PUTTING UP
LIGHTNING-RODS.

ATTORNEY-GENERAL'S DEPARTMENT,

RALEIGH, N. C., April 14, 1904.

HON. B. R. LACY, *State Treasurer*.

DEAR SIR:—I have the honor to acknowledge the receipt of your favor of this date containing a letter of * * * attorneys for the Sheriff of Duplin County, in regard to the liability of the salesman of * * * to pay a license tax under section 47 of the Revenue Act.

Replying thereto, I beg to advise you that I am of the opinion that that portion of the said section which may be construed as an effort to tax the business of selling lightning-rods in this State cannot be enforced if the lightning-rods are manufactured out of the State, and the business of the salesman is limited to the solicitation of persons to purchase, and in consequence of these negotiations the lightning-rods are sold and shipped to the purchaser within North Carolina.

Section 47, however, imposes a tax upon every person or company who *puts up* lightning-rods. This is essentially a tax upon a business which is purely domestic, and which contains no features of an interstate commerce transaction. The language of the Supreme Court in the case of *State v. Gorham*, 115 N. C., 721, at p. 728, is applicable: "The sale and delivery of the article is not inseparable from the erection of it, any more than the shoeing of horses is from their importation into the State, or the shipping here of wheat is from its sowing in the fields."

My view is simply this, that if the company solicits orders for lightning-rods to be afterwards delivered, the business is interstate commerce and falls within the Caldwell case referred to in the letter of Messrs. Stevens, Beasley & Weeks, but if the company is engaged in the business of *putting up* lightning-rods in this State, the business is domestic in its character and falls within Graham's case, *supra*, and the case of *Lacy v. Armour Packing Company*, decided at the present term of our Supreme Court.

Respectfully,

ROBT. D. GILMER,
Attorney-General.

INDEX.

A

	PAGE.
ATTORNEY-GENERAL, criminal cases argued by in Supreme Court,	5-20
Letter of transmittal of.....	3

B

BONDS, non-taxable	97
BREWERIES, qualifications not applicable to.....	105

C

CAPITAL STOCK	97
CHARTERS, granted by General Assembly.....	95
CORPORATIONS, privilege tax on.....	97
CRIMINAL STATISTICS,	
Cases disposed of from July 1, 1902 to July 1, 1903.....	24-29
Cases disposed of from July 1, 1903 to July 1, 1904.....	30-35
Crimes by counties.....	36-83
Consolidated statement	84-86
Specific offences	87-88

D

DEALERS IN LIGHTNING-RODS.....	107
DEALERS IN PIANOS AND ORGANS, tax on.....	106
DREDGING, oyster	100

F

FORFEITURE OF OFFICE BY ACCEPTING ANOTHER.....	99
--	----

G

GENERAL ASSEMBLY, charters granted by.....	95
--	----

I

INHERITANCE TAX, how computed.....	102
INSOLVENTS, taxes due from.....	93

L

	PAGE.
LICENSE, for oyster dredging.....	100
When transferable	104
LIGHTNING-RODS, tax on dealer, etc.....	107

O

OFFICERS, when entitled to reward.....	91
ORGANS AND PIANOS, tax on dealers in.....	106
ORGANIZATION TAX	95
OYSTER DREDGING, license for.....	100

P

PIANOS AND ORGANS, tax on dealers in.....	106
PRIVILEGE TAX ON CORPORATIONS.....	97
PROPERTY AWAITING TRANSPORTATION, taxation of.....	103
PUBLIC OFFICER, forfeiture of office by accepting another.....	99

Q

QUO WARRANTO, leave to sue in.....	21
------------------------------------	----

R

REWARDS, when officers entitled to.....	91
REVOCATION OF LICENSE FOR OYSTER DREDGING.....	100

S

SHERIFF ENTITLED TO CREDIT FOR TAXES.....	93
STATISTICS. (See Criminal Statistics).	

T

TAX, inheritance tax.....	102
Privilege, on corporations.....	97
Organization	95
Due from insolvents.....	93
On dealers in pianos and organs.....	106
On dealers and parties engaged in putting up lightning-rods,	107
TAXATION OF PROPERTY AWAITING TRANSPORTATION.....	103



